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TREASURY, POSTAL SERVICE, AND GENERAL
GOVERNMENT APPROPRIATIONS FOR
FISCAL YEAR 2001

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

SUBCOMMITTEE ON THE TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT
APPROPRIATIONS

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TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR
2001

Wednesday, March 22, 2000.

FEDERAL ELECTION COMMISSION

WITNESSES

DARRYL R. WOLD, CHAIRMAN, FEDERAL ELECTION COMMISSION
DANNY L. McDONALD, VICE CHAIRMAN, FEDERAL ELECTION COMMISSION
DAVID M. MASON, COMMISSIONER, FEDERAL ELECTION COMMISSION

CHAIRMAN KOLBE OPENING STATEMENT

Mr. Kolbe. The Subcommittee on Treasury, Postal Service, and General Government will come to order. I am delighted to welcome in your first appearance as chairman, Commissioner Darryl Wold, Vice Chairman Danny McDonald, and again, Commissioner David Mason. Commissioner McDonald certainly isn't new to testifying before the Subcommittee, but I think it has been a while since you have been here as the Chairman of the Finance Committee and presented the budget to us. So we welcome the insights of all three of you to the FEC's fiscal year 2001 appropriation request.

Let me begin by saying that I want to give you a pat on the back, I want to commend you for the budget justification documents that have been used in preparing this year's budget request. I think it is fair to say that this is the first time in nearly 6 years that the Federal Election Commission has not painted a picture of doom and gloom over its current and past budgets. I think there has been a real concerted effort made to focus on what can be done with the resources available rather than simply focusing on all of the things that have been missed because of things that were not provided in appropriations in past years.

So I would just like to say that I think it is a positive development of looking at the glass being half full rather than half empty. I am also pleased to see that the FEC is taking what I think are very aggressive and positive actions to implement a lot of the recommendations that were contained in the PriceWaterhouseCooper's Management Review and Technological Audit that was done in 1999. I appreciate the updates that you have been forwarding to this Committee, and I again commend you on the progress that I think you have made to date.

I am particularly pleased with the progress that we have seen in the area of electronic filing. I believe this effort is an important enhancement to the reporting requirements for the Federal Election Commission. I am also pleased with your progress to date on establishing an administrative fine schedule and implementing a pilot project on alternative

dispute resolution. It seems to me that these efforts are essential to the FEC's ability to manage the growing workloads in more efficient and productive ways.

Now, having thrown all of this praise your way I don't want you to get complacent. There is never, of course, 100 percent satisfaction in the overall performance. I don't think you have 100 percent satisfaction or should have in your own business. I do want to commend you, though, on the initiatives in what I think is a new way of thinking at the FEC. But I do think there is a lot that remains to be done. So I hope that you will continue on the path towards implementating the PWC recommendations and particularly what I call looking outside the box, looking for new ways to achieve the objectives that are contained in your authorizing legislation, sustaining this last year's level of enthusiasm for creating and developing efficient methods that can help ensure timely disclosure and compliance with the election laws that we have. I look forward to your testimony and let me turn to Mrs. Meek and see if she has any opening statement.

[The information follows:]

Mrs. Meek. I just want to welcome the Commission and it will be good working with you.

Mr. Kolbe. Thank you very much, Mrs. Meek. If Mr. Hoyer has a statement when he arrives--we understand he is coming from the White House and should be here fairly shortly. But in the event, we will be happy to take your statement as always of course. The full statement can be placed in the record and we look forward to hearing the comments that you would like to make now and move directly to questions.

Commissioner.

Mr. Wold. Thank you, Mr. Chairman. We would like our testimony entered into the record.

Mr. Kolbe. Absolutely.

Mr. Wold. I think our vice chairman, the chairman of the finance committee, Commissioner McDonald will give a brief summary of that and accept the accolades on behalf of the Commission. Thank you very much for your comments.

SUMMARY STATEMENT OF VICE CHAIRMAN MCDONALD

Mr. Kolbe. Commissioner McDonald.

Mr. McDonald. Mr. Chairman, thank you, and Congresswoman Meek. It is a pleasure to be here. I think the best thing to do is stop after the comments made by the chairman. That pretty well covered my presentation for the morning activities.

Let me briefly outline for you the money that is involved and highlight a few of the projects that the chairman mentioned at the outset, and then, of course, we would be happy to answer any questions. First of all, let me thank this committee. It is very important and I appreciate the chairman alluding to it. The bipartisan support by this committee last year was very instrumental to us in helping us achieve some of the goals that we had talked about for a long time. And without that we wouldn't have made the kind of progress that was referred to in

the opening part of the statement.

The fiscal year 2001--I have continually referred to it as 1990--something, Mr. Chairman; I am having trouble getting used to this. But in 2001, we are asking for \$40,960,000 and 356 FTE, which represents an increase of \$2,782,000, which is about a 7 percent increase, and a 4 percent increase in terms of our FTE. Last year we had an FTE of 352. The budget request reflects an agreement reached with OMB for a funding level of \$40,500,000, and the additional 4 FTE results in another \$460,000, as you know, that we are requesting for the commissioners.

Let me break down briefly where that money will be used in terms of the money that we have asked for. Of the \$2,682,000, \$1,477,000 is what you would anticipate to offset inflation and administrative costs of the current levels of operation, that is to say, within grade increases, career ladder promotions, cost of living adjustments, retirement funds, contributions, insurance cost, GSA rental rates and overhead cost of phones, equipment and supplies. I think the normal things that we would all anticipate.

\$1,205,000 is for additional resources in program areas: the 4 FTE that I referred to; \$100,000 for contract funds to complete the voting assistance standards update; \$60,000 for a conference for national election administrators from around the country to work on these activities; and another \$100,000 for legal document imaging and indexing. In addition, we are making some changes as we discussed the other day, Mr. Chairman, which is in our--we are taking 5 FTE that we had over in our audit division, and although we are not taking them all out of there, we are moving three of them into a different track in terms of trying to enhance our ability to have more audits in a given year. Then we will take 2 additional FTE and move into our alternative dispute resolution program, which is a pilot project that we have.

We think the program, which Commissioner Sandstrom was very instrumental in bringing to us will allow us to eliminate long delays that may be incurred from time to time on what we consider very routine matters. So we are hopeful that that will help us. We are hoping that the administrative fines process that this committee was kind enough to forge ahead on last year, will help us reduce the amount of time and energy we spend on routine cases.

I would like to comment on those three statutory mandates from last year for just a moment. We are going to have electronic filing as you alluded to. We will have a rule-making issued by December 2000. The Commission also is implementing a rule-making on election cycle reporting for the year 2000. That, again, is directly from this committee, and we appreciate that very much. On the 2000 administrative fines where we are trying to once again make the process much more straightforward, we are actually having an open session tomorrow to discuss how we are going to finalize that system and it should be applicable for the July reports.

Again, that would be a straight-up process where people would be served notice right up front on what they could or could not expect if they did not file reports, either timely or did not file them at all.

So those are some of the things, Mr. Chairman, that we are looking at. We have a number of things that we are prepared to discuss with you as reflected in our record. I thought it might be better if we could just get right to the questions.

Mr. Kolbe. Excellent. Thank you very much.

[The information follows:]

INCREASE IN FTE FOR COMMISSIONERS

Mr. Kolbe. Let me begin by asking about, as you noted in your statement the increase is fairly small, and 3.9 percent of it is for administrative costs of current levels of operation. Of the new funds, the \$1.2 million for additional resources, a large part of it, a little more than a third of that is for 4 FTEs for administrative assistants to the Commissioners. Currently you have one for each commissioner; is that correct? And that would--except for the chairman and vice chairman----

Mr. Wold. During the term of the chairman and vice chairman, they are entitled to two executive assistants.

Mr. Kolbe. This would give two executive assistants to each of the commissioners. And I also know that your budget is one that is concurrently reviewed by OMB, so you can submit separately and, in this case, OMB did not recommend the four additional positions, but you chose to go ahead and submit that. Can you shed any light on your discussions with OMB as to why they did not choose to recommend that?

Mr. McDonald. Well, I think the primary reason was that they felt like they would okay the positions, but they would not okay the money which, in essence, kind of puts us in a bind, needless to say. [Clerk's note.--The witness later clarified this to read: ``OMB did not approve of either the positions or the money but agreed the Commission could ask Congress for them. OMB did not give any rationale beyond disagreeing that the Commissioners need an additional executive assistant to properly manage the agency.''] The one thing we are not interested in doing is to take away from existing programs. We think that is self-defeating. We have found over the years, and I am sure you can identify with this, the amount of time that it is taking each one of the executive assistants out of our offices to work in each one of these areas, just the activities in Pricewaterhouse alone, is unbelievable. We think the end result is very good, and, in fact, we have been asked by this Committee to be more hands-on in the day-to-day activities of the Commission itself. Although there was some reluctance initially to be more involved, it proved to be a wise request by the committee.

So we are asking our staff to spend more and more time in this area implementing a number of these new programs. When you are doing that, of course, you are not getting to the fundamental business of the Commissioner's office, which is to try to analyze legal implications of a number of the cases we have. Our caseload has grown fairly substantially, and we find it is very hard to cover all of the frontiers you want and need to cover with just one executive assistant.

Mr. Kolbe. You have answered part of my next question, which is, what is your rationale for these positions? But

elaborate for me as to why you would think in terms of meeting or implementing the Pricewaterhouse recommendations, why it is not more advantageous to take these 4 positions and put them into audit or some other place in the organization? What is the rationale that they are needed as executive assistants to the Commissioners?

Mr. McDonald. Well, again, the key component is we can always use 4 more, whether it is in audit or in OGC or whether it is in RAD. But, as a practical matter, what we are finding more and more as commissioners, as we become more and more involved, is we need to be more involved in that process. It is very hard to have somebody working on the caseload and then at the same time, being off to meeting X, Y, and Z while simultaneously trying to prepare us in terms of the impact of electronic filing and any of the other activities.

The dramatic difference the chairman and I noticed by having two assistants is we are in good shape. We have the two executive assistants which is great for us. But, the difference in the flexibility and focus you have in taking care of your duties is fairly substantial.

Mr. Kolbe. One final thought along those lines. You said yourself that you find that the duties of getting involved in such things as electronic filing is so substantial that you need this additional staff because you really need to focus on your fundamental mission, which is to review the legal implications of cases that are brought before you. Are the Commissioners getting too much involved in the detail of running the organization? Isn't that what you have a professional staff to do? And wouldn't using this staff more allow you to focus on the legal implications of cases?

Mr. McDonald. I think it is always a balancing act. I was an administrator. That is what I used to do for a living before I got here. And I must say to you that is always the balancing act. But let me answer as directly as I can. What we try to get involved in are things that are ultimately going to result in policy decisions. For example, if you look at the administrative fines, the key component there is if we don't have a good sense and are not paying very close attention to what type of resources this program is going to take and how it will impact on the process, if commissioners are not at ground level on that, that is a problem because it impacts directly on the regulated community. The same is true about the case management system. As a practical matter in terms of case management, we know the impact it has on the overall process will reflect directly on our users.

And so we are trying to get more involved in that program. I think you are absolutely right. Our goal is never to do the day-to-day business, but we never want to get caught short. One of the things raised in Pricewaterhouse was it was critical for the Commission to interact more closely with the various divisions. I do think that is critical.

Mr. Wold. Mr. Chairman, with your permission, I would like to add my support for what Commissioner McDonald has explained, and maybe flesh out a little more how we are using the staff in the administrative oversight function. In implementing the PriceWaterhouseCooper's recommendations, and other initiatives we have taken on our own for management and structural changes,

we have formed task forces and working groups composed of staff from the respective divisions. These working groups plan out how the changes would be made and how they would be implemented. We have found that rather than wait for that staff report to come back to the commissioners and see it for the first time and then say, well, we didn't like one of your early assumptions that you made, go back and start over at that point and come back to us again. We found that it is more productive to have our own staff involved in that planning process so that as issues come up, they can bring it back to the commissioners immediately. We can give an informal recommendation at that point to shape the direction that the plans are going, so that when we do get a final report with a recommendation to implement a new program, we are, at that point, already familiar with the details of it, and our input has already been taken into account.

So it is pretty much the way that we want to see it at that point. But these task forces and working groups meet on a regular basis. At last count I think there were nine of them that were active that our staffs are involved in meetings with. We just found that is very time consuming. That drains a lot of time from our staff that would otherwise be devoted to the legal review that we undertake on enforcement actions, on audit reports, on new proposed regulations and on advisory opinions that come to us on a regular basis.

So our staff has just been stretched too thin to do both functions, and that is why we are asking for the new staff. I should say we also have three committees of commissioners to enhance or increase our oversight responsibilities. One committee is the finance committee that has been in place for some time to review our budget as it is developed and made ready for presentation to this committee. Last year Chairman Scott Thomas formed a regulations committee to get commissioners involved on a regular basis working with our staff in the General Counsel's Office to develop regulations, to set a priority for promulgating new regulations and working with them so that the product coming out is going to be acceptable to the Commission.

This year, I have appointed a litigation committee to perform the same function with respect to litigation that is undertaken by our General Counsel's Office, both on the enforcement level to make sure that we have an appropriate balance in the scope of the litigation to pursue our enforcement actions, and also to be involved in any policy decisions that may necessarily arise in the postures in litigation defending the interpretation of the constitutionality of the provisions of the Federal Election Campaign Act. Staff is involved in those committees also, as are the commissioners themselves.

Again, that takes time that hasn't been part of our traditional workload for the executive assistants.

Mr. Kolbe. Thank you for that explanation. I will have some additional questions, but let me turn to Ms. Meek.

Mrs. Meek. Thank you, Mr. Chairman. I understand in your fiscal year 2001 budget, you are seeking FTEs, as you stated, to provide a second executive assistant for each commissioner so that you will have another executive assistant. You also proposed to add new functions to your audit staff. But you are

not seeking additional FTEs for compliance or enforcement; is that correct? And if that is correct, what is your rationale for that?

Mr. McDonald. Well, it is correct, and there are a number of things. I should have, Congresswoman Meek, addressed that in my opening comments. We have for years, as you may know, come before this committee and asked for additional help and have been getting that help. We went through a real down period in the mid 1990s where, in the litigation side in particular, we went from a high of 28 attorneys down to about 18. We have gradually had the opportunity to build back up over the years.

We hope a number of these projects we are referring to this morning, particularly administrative fines and alternative dispute resolution, will take some of the burden off of the General Counsel's Office and allow us to free up more resources so we can continue to work. We are pretty comfortable right now where we are as reflected in the Pricewaterhouse statement about the Commission. We think there are a number of things we have been able to do to help in terms of saving time. We will know more, quite frankly, when we take a good look at our case management system implemented last October. We are taking a look at it in April. As you know, and the chairman alluded to in his opening comments, we are always looking for more help, but we are fairly comfortable where we are at this juncture.

Mr. Wold. I might add, Congresswoman, that the additional FTE in our audit program is part of our compliance program, because that determines whether there have been violations that may result in an enforcement action. So we refer to that as compliance also.

BLACKS IN SUPERVISORY POSITIONS

Mrs. Meek. Normally, I ask agencies who come before us this question regarding your minority hiring and your minority contracting. I think I asked you this question last year and I looked at the answers that you sent to me regarding the profile of your contractees. And the percentage that you are utilizing is typical of most Federal agencies in that regard. But I found it surprising that there were no black males in the top 30 supervisory positions in your agency. You may want to explain this.

Mr. McDonald. I apologize, because I don't know exactly what the status of that is. I am going to have to ask the staff.

Mrs. Meek. Would you provide me with that information?

Mr. McDonald. Yes, I think that we could get that to you before the end of meeting.

Mrs. Meek. I received these data from you. Thank you, Mr. Chairman.

[The information follows:]

There are a total of 71 FEC employees classified as supervisors or managers. Of that number:

7 are black females or 10% of the supervisory workforce.

5 are black males or 7% of the supervisory workforce.

Mr. Kolbe. Thank you, Mrs. Meek.

Mr. Hoyer, welcome.

OPENING STATEMENT OF CONGRESSMAN HOYER

Mr. Hoyer. Thank you, Mr. Chairman. I apologize to Mr. McDonald and Mr. Wold and Mr. Mason for being late. I was with the next President of the United States, but he is currently the Vice President of the United States. With all due respect to you, I didn't want to leave. But I am pleased to be here and I welcome you to the committee and say that I am pleased that the budget submission is such that I think we have a budget that can help you, and there are some things that we need to do to assure that you have the capability, both in terms of technical capability, information technology, and personnel, to accomplish the objectives and the job that we expect of you and the American public expects of you. We are in question time, right, Mr. Chairman?

Mr. Kolbe. Yes, we are. Please go ahead with a statement if you would like.

Mr. Hoyer. I will include my statement in the record. It is glowing and you would love it.

Mr. McDonald. Oh, well, please.

Mr. Hoyer. I want to say to my friend, Mr. McDonald, it has been a pleasure to work with him over the years. I want to say to both Republicans and Democratic members of the FEC that hopefully you will work together in a collegial way. Obviously there are partisan differences from time to time. But what the Congress expects, and I think what the American public expects, is for the elections to be run as openly and honestly as is possible, irrespective of which party, because really in the final analysis, the American public wants to make a judgment based upon as much information as they can get as quickly as they can get it.

ELECTRONIC FILING

Toward that end, let me ask a couple of questions. First of all, electronic filing. The first provision mandated the electronic filing beginning in January 2001, for certain filers. Can you give us an update for how preparations for mandatory electronic filing are progressing if you haven't already done that?

Mr. McDonald. Mr. Chairman, Commissioner Wold, I thought was getting ready to answer. But, if he is not, I will. Congressman Hoyer, we are in pretty good shape. By the end of the year, we will develop the proposed regulations and have these out to the general public. As you know, we think it is going to do a substantial amount for us, and we are pretty confident by December 2000 we will be ready to go with a final rule. We think it will make a very substantial difference in the impact on the process.

Mr. Hoyer. It is my understanding that voluntary electronic filing is increasing.

Mr. McDonald. It is indeed.

Mr. Mason. We about doubled the number of committees that are filing voluntarily. I just wanted to give you a few more details about the mandatory electronic rule-making because the

Regulations Committee has approved a staff draft and instructed them to forward that to the full Commission. So, probably next month, the Commission will receive and be able to act on a draft notice of proposed rule-making, which we will put out for comment, review the comments, adopt it and submit it to Congress.

So that is something you will see as a public document in the next month or so. That document also will have the proposed thresholds--how big committees will have to be--to fall in the mandatory filing category. We should then have a couple of months to go back and forth to consider major concerns and get the regulations submitted to Congress so we will have the 30 legislative days before you recess in October.

Following that schedule, committees will have a lot of notice for rules going into effect in January of 2001. They will have been out for comment for more than 6 months and the final rules would have been available for several months before they go into effect.

Mr. Hoyer. I am glad to hear that. With respect to the increases in the voluntarily filings, is that causing you any unforeseen problems or are we able to handle that?

Mr. McDonald. No, that is not a problem at all because even though the numbers are dramatic in terms of percentage, the actual numbers of committees are under 500. So we are making progress in that area, but it is not as quick as we would like. And, it does include presidential committees.

Mr. Wold. We have been able to accept the very large filings from presidential campaigns--who are mandated to file electronically if they have accepted public financing--without any significant problems. So that has run smoothly, and that has increased our level of confidence that the program currently in place will handle the mandatory filing with reports beginning next year.

ADMINISTRATIVE FINE PROVISION

Mr. Hoyer. Good, I am glad to hear that. The second provision that we included in the bill last year dealt with administrative fines. I know Mr. McDonald and I have had an opportunity to discuss that, but I would like you to discuss that on the record as to where we are going on that and what developments are occurring.

Mr. McDonald. Well, I do want to address that and I thank you, and I would like for Commissioner Mason to address it as well, because he is the moving force behind those activities. But I think we are making good progress. Tomorrow in an open session, we will be coming forward with a proposal about what we would like to send to Congress. We are pretty confident we will be ready to go by the July filing date in terms of the first real impact on the process.

Obviously, it is new territory for us. We are trying to get some sense of how it is going to play out in terms of impact on our staff. We are trying to work out the appeals process we know is mandatory for those that are not satisfied. But I must say we are very appreciative to the committee and you, personally, because I think it is a big step in the right direction. It does clear up a lot of the ambiguities we have talked about

from time to time before this committee. It will give people clear guidance on what they can expect and what kind of money they might be less inclined to have at the end of the day if they have not filed in a timely fashion.

So we are very hopeful this provision will be effective for the July reporting period, and we are pretty confident we will be sending these proposed rules to Congress in a few weeks.

Mr. Hoyer. Mr. Wold, did you want to comment on that at all?

Mr. Wold. I would like to have Commissioner Mason do that because this is an example of where we have delegated some of that to a committee of the commissioners, and Commissioner Mason has served on three committees, including the regulations committee, which is developing the proposed regulations and the rulemaking to implement the program.

Mr. Mason. Lest I get all of the credit or blame, Commissioner Sandstrom is on the regulations committee with me.

Mr. McDonald. We are waiting to see how these work out before some of us want to take any credit.

Mr. Mason. What we had to do to implement the fine program was set up an administrative structure within our Reports Analysis Division to assess the fines because we have never done that sort of thing before. RAD already receives and reviews the reports, and will now add a task of generating notices for the Commission for late reports.

We had to agree on a fine schedule which will be in the agenda document tomorrow. It has already been issued publicly, and that is on our Web site already today. And then we had to arrange an appeals process because the legislation provided that we had to have a hearing on what the basis of appeals would be. That is also outlined in the notice. Those are the steps that we have been through. We are hopeful that we will be able to vote that out tomorrow, put it out for a 30-day comment period, and that would give us enough time to then make any revisions and get those into effect so that we could start the process for the July quarterly filings.

Mr. Hoyer. From your answers, I would presume that is the case, but are you clear on what you think the legislative intent of this provision was?

Mr. Mason. That has been an interesting puzzle because the statements and the committees, the various committees involved with this committee and the authorizing committees, essentially, looked at the Pricewaterhouse recommendation at our request, which were focused principally on saving resources in the General Counsel's Office.

So one of the things that we made sure to do in constructing the process was keep it out of the General Counsel's Office, keep it in RAD, have an appeals office that would be an independent office, so that in terms of any resource savings, we were able to plow those back into the more substantial enforcement cases. But we perceive, from previous discussions there were two other interests: one was certainty on the part of the regulated community. We are going to have a fine schedule and everyone will know if your report is this many dollars and this many days late, then this is what the fine will be.

It will be a more transparent, and we hope a more fair

system. And the third thing is that frankly we will be able to do more and better enforcement as to late filings. When we have to go through the whole long process in order to take care of a fairly simple late filing, there were only so many that we could do. So we are going to be able to take this opportunity to really do a better job, and we think it will vastly improve compliance in the filing community. That has certainly been the experience at the state level.

Mr. Hoyer. I think the first objective is an important one, but I think the second and third objectives are going to be more useful. We want to save money, we want to have fewer requirements on the staff, and we want more productivity. But what we really want to do is make sure that we have certainty. All of these folks that are participating in the system know that if I mess up here, and I don't do this, what happens, rather than something that I shouldn't have done negligently or consciously.

If it is catch as catch can, first of all, you are subject to a partisan attack, that a Democrat got a higher fine than a Republican or vice versa or an independent got a higher fine than any one of the parties because the independent doesn't have anybody on the Commission, theoretically. So I think the second and third objectives are very important.

Mr. Chairman, I know I have taken my time but I will go another round.

ELECTRONIC FILING SYSTEM

Mr. Kolbe. I will ask a few and come back to you. Let me just follow up a little bit on what Mr. Hoyer was talking about, the administrative fine schedule, and to some extent, we were talking about the electronic filing, just a couple of questions in the area of electronic filing. One of the Pricewaterhouse criticisms of the electronic filing system that you have so far is it doesn't meet the internal needs of staff or the expectations of the filing community, that is, those campaign committees that are filing; that it doesn't readily make reviewing finance data easier for your FEC analysts and it contains no smart features that could help the filers review and check the information before they actually send it. Do you concur with that finding of Pricewaterhouse?

Mr. McDonald. Basically, I apologize, Mr. Chairman. I am trying to look through here. That was a criticism and we have dealt with it. I am trying to find out where it is in our report.

Mr. Mason. There is a real difference between the filing software and the review mechanism. So what we have done is gotten RAD, who reviews the reports, to go to the Data Division, and we are developing routines which will allow essentially automated review of reports. Until we got a certain number of electronic filings, that wasn't worth doing. When we just had a few to set up, a whole different system to review one kind of report, it wasn't worth it. Now that we are going to have mandatory electronic filing, it is. But the question there wasn't so much the electronic filing software, but what we did with the electronic filings once we got them. So we have started to establish a mechanism to take the electronically

filed data, transmit it to RAD electronically, and they will have their own software to review the reports. That takes care of the reviews part.

In terms of the smart features, we had added some smart features to version 3 of the software, but all along there has been a little bit of tension in terms of us not wanting to be in competition with commercial software providers. There are a number of firms out there, as you know. So we made a decision to make our software serviceable but not to try to be out there and compete with commercial firms.

Mr. Kolbe. Let me interrupt you there, because we have the same issues with another one of the agencies that comes under our purview here. On that software--so when you are talking about software, you are not talking about software that you are making available to me as a committee that files?

Mr. Mason. Yes, we are. We have software that allows complete----

Mr. Kolbe. How is that not in competition with what is in the marketplace?

Mr. Mason. The commercial software is focused far more on fund raising and generating follow-up letters, maintaining direct mail lists and so on like that.

Mr. Kolbe. So it wouldn't be--I guess what I am saying is we are still left with the problem that it is not compatible at all with your software, so a filer has to maintain two systems?

Mr. Mason. No, it is compatible. We have worked with the filing community. The two biggest firms out there have had contracts with the Commission to make sure that their software, which is general purpose software, will generate reports which we can receive and use. In fact, that is the case. And so we have those two firms that have signed contracts with us. We have validated an additional 10 firms who are working with us to make sure that their software will generate reports that we can accept and read. That has been our goal, that anyone who is out there who wants to and is in the campaign management software business will have the technical specifications available that their software can generate reports for us.

SENATE ELECTRONIC FILINGS

Mr. Kolbe. Our legislation contained a provision that said that the Senate committees do not have to file electronically. I just wonder what implications this has for your workload, your budget, and are you working with the Senate to try to get electronic filing done even if it is on a voluntary basis with Senate committees?

Mr. Mason. The electronic filing in question with the Senate is more of a policy issue than a technical issue. We have made offers to the Senate and have worked with the Secretary of the Senate to provide them with the technical information and technical assistance that they need to do what they want to do. That is already resulting in some enhancements, for instance, to the Web site. And so we stand ready to assist the Senate and we can do that. As long as the Senate continues to receive paper filings, we are going to have to review those filings, and key in the data that is associated with those filings. Some of those are very big filings. So yes,

it is a workload issue for the Commission.

Mr. Kolbe. Is there any language that you want us to consider putting in our bill this year or report that would help you move that process along with the Senate? You don't have to answer that now but if there is something----

Mr. Wold. Not that we want to tell the Senate----

Mr. Kolbe. Is there something that you want to tell the Senate?

Mr. Mason. I generally think it is more of a policy question with the Senate than a technical question.

Mr. Kolbe. I understand that, but I am asking you if we need to prod our brethren over in the Senate on some policy standpoint.

Mr. McDonald. We certainly have recommended it to them before on numerous occasions.

Mr. Mason. I guess the best argument is that ultimately, we think electronic filing is going to be in the interests of the committees because it is going to make their job easier.

PRESIDENTIAL MATCHING FUND SYSTEM

Mr. Kolbe. Let me ask you, if I might, a question on the Presidential Matching Funds. I think just a month or so ago, you certified a cumulative total of \$39.6 million in Federal funding to eight presidential candidates, but I think you have only been able to disperse about 50 cents on the dollar. As I understand it, the Presidential Election Fund has a balance of about \$165 million; is that correct?

Mr. McDonald. That is correct.

Mr. Kolbe. The first order of priority is you have to reserve money for the general elections. How much is set aside for that?

Mr. McDonald. It will be about \$69 million each, for the two presidential candidates, for the two major party candidates.

Mr. Kolbe. Plus another \$13 million, is that right, for the----

Mr. McDonald. For the Reform Party.

Mr. Kolbe. That brings you to--\$69 million and \$13 million--about \$82 million; is that right? Then how much for the conventions?

Mr. Wold. \$69 million each.

Mr. Kolbe. \$69 million each, okay.

Mr. McDonald. Then you have \$13 million each for the two major party conventions.

Mr. Hoyer. \$69 million is enough for three primaries.

Mr. Kolbe. When do you think you will be able to make the candidates whole?

Mr. McDonald. By June. The projection right now is about mid-June.

Mr. Kolbe. After you have received all of the income tax filings for this subsequent year?

Mr. McDonald. That is correct.

Mr. Kolbe. The trends on check-off is not very encouraging, is it? The numbers of people have been declining fairly steadily from a high of around 28 to 29 percent down to around 12 percent now?

Mr. McDonald. That is correct.

Mr. Kolbe. Have people made any projections about whether you think this trend is going to continue?

Mr. McDonald. It is a little hard to know, but it is hard to deny what we have been seeing. There has been lots of speculation as to why that is the case. As you know, the expenditure side was not indexed when the law was written, and we had to come back and ask Congress a few years ago to put in additional money just to cover where we were at that point. One of the problems has been an indexing problem, but the other problem is participation is down.

Mr. Kolbe. I have other questions, but because we have a vote and there is only two of us here, I will give the rest of my time to Mr. Hoyer and submit the rest of the questions for the record.

CAMPAIGN CYCLE REPORTING

Mr. Hoyer. Thank you, Mr. Chairman. That is of concern. Let me go back to my three issues. On campaign cycle reporting, has that made a difference? Have you encountered any oppositional problems associated with changing committees reporting from both the calendar year to a pro election basis to a campaign cycle basis?

Mr. McDonald. We don't really know yet, but we think it is going to work out well because we think we will get away from the kind of problems we have seen over the years where there is just mass confusion. It is too early to know the answer to that.

Mr. Wold. I want to add, Congressman, one of our priority legislative recommendations is to make some technical amendments to the change that was made last year to conform the expenditure side of the reports to the reporting of contributions on an election cycle basis.

Mr. Hoyer. Good. Let me say as an aside, not necessarily as a question, but as an observation, as you know we reported out of the House Administration Committee last year a bipartisan bill which incorporated many of the recommendations made on an almost unanimous or 5-to-6 recommendations by the FEC itself. I introduced yesterday H.R. 4037, which is the FEC Reform, and Reauthorization Act of 2000. I hope to work with Mr. Thomas who, of course, chairs our committee that sponsors the bill that we reported out, which was offered as a substitute for campaign finance reform, but which I always thought was really two things, one was a process bill and a substantive policy bill.

I am hopeful that I can work with Mr. Thomas and members of the House Administration Committee in passing this legislation or other legislation sponsored by Mr. Thomas himself, which will adopt many of the recommendations you have made. I would ask you--I won't ask you to comment on this point in time, but if you would look at that and provide some suggestions for additions or modifications. Hopefully we can do something. I think there is bipartisan support for it, Mr. Chairman, and maybe you could also work with Mr. Thomas. I would like to have you look at it and talk to Mr. Thomas.

Mr. Kolbe. Okay.

VOTING SYSTEMS STANDARDS

Mr. Hoyer. Voting system standards. I note that you have budgeted just under \$300,000 for updating the voting system standards and for a conference to explain the revisions. I believe this is an important issue. As you know, I have been involved in this for some time. I am very pleased the Commission has undertaken to update these critical standards. When were the voting standards last updated?

Mr. McDonald. 1990.

Mr. Hoyer. Do you believe that a regular update of the standards would be valuable?

Mr. McDonald. I believe it would be very valuable, Congressman, because as you know, I used to be a local election official. Things have changed over time in relationship to what is available in the marketplace. As you know, we just had last week, and I am not sure how that is going to work out, we had online voting out in Arizona. Some of it is creating great interest. I don't know what the ultimate outcome will be, but clearly one of the things that is tough for election officials locally around the country is not being able to turn somewhere and have enough information about what is available, have the ability to work with their colleagues in determining and understanding what is out there and what the pitfalls are. I think it is an awfully good program. I have a special interest because of my previous service.

LEGISLATIVE RECOMMENDATIONS

Mr. Hoyer. By the way, I know you have submitted an additional six priority recommendations from the Commission. I included all of those in H.R. 4037. I am not going to ask you to comment on that because I don't want to take the time right now to do that but I did want to let you know they were in there.

Mr. Wold. We appreciate your interest and support for those recommendations.

CASE MANAGEMENT SYSTEM

Mr. Hoyer. On case management system, I understand it became operational last October. Would you update us on your progress with full implementation of this system?

Mr. McDonald. Well, we will have our 6-month review here in April. We think things are actually going quite well, but we are going to have to analyze where we are at the end of the 6-month period. Basically, I think it is safe to say we are two-thirds of the way through the process. We will have a report at the beginning of next month.

FEC WEB PAGE

Mr. Hoyer. Obviously one of the first objectives you mentioned with respect to our provisions on the electronic filing applies here. Hopefully this is going to streamline the agency and make you better able to handle the workload that you have and become more productive. Let me ask you about your Web

page. I note the FEC Web page has been redesigned and is much easier on the eye. Are you comfortable that its current design makes it possible for voters to quickly and easily access the public disclosure reports of the candidates immediately upon logging on to the site?

Obviously, one of the objections to electronic filing is to make it instantaneously available to the voters because of the final analysis that what this is all about, not to just make sure the candidates are honestly following the law, but let's assume they are doing it, to make sure the voters know who is giving what to whom and why. You won't be able to analyze why, but they can draw their conclusions from who and what.

Mr. McDonald. We are very pleased with the Web page because it is one of the few things in life where there seems to be a general consensus across-the-board that people really like it. I have had more people comment about this maybe than anything else we have done, other than some votes I have cast, and they have not put those quite in the same light as the Web page. But I think we are very pleased. You can get so much information out of our Web page these days, not just in terms of how much money is given, but resolutions of cases and advisory opinions. I think there is a whole host of things you can find on our Web page today.

Mr. Hoyer. Mr. Chairman, I have one additional question.

Mr. Kolbe. I think we have time. I don't have a TV here.

ALTERNATIVE DISPUTE RESOLUTION

Mr. Hoyer. Alternative dispute resolution, approved funding for pilot program in the enforcement area for ADR. Can you describe your progress on that?

Mr. McDonald. Well, I think we are in pretty good shape. We are getting ready to hire someone to run this program. I think our hope is along the lines to parallel what happened with the administrative fines program. Our hope is by pursuing this approach, we will be able to take care of routine cases outside of the normal wear and tear of a complaint. This will allow us to free up some resources in OGC, which we would like to see happen and make routine cases move along considerably quicker. We will have someone hired, I think, in the next few months, if memory serves me, next month, and then we will probably have a second person come in and work with them. So we think we are getting awfully close.

Mr. Hoyer. Good. Excellent. Thank you, Mr. Chairman.

Mr. Kolbe. Thank you very much, gentlemen, thank you for your testimony today, and in order to get us to a vote, we will quickly wrap it up and say thank you very much and the committee is adjourned. Saved by the bell.

Wednesday, March 29, 2000.

U.S. GENERAL SERVICES ADMINISTRATION

WITNESSES

DAVID J. BARRAM, ADMINISTRATOR
ROBERT A. PECK, COMMISSIONER, PUBLIC BUILDINGS SERVICE
DONNA D. BENNETT, DEPUTY COMMISSIONER, FEDERAL SUPPLY SERVICE

INTRODUCTION

Mr. Kolbe. The Subcommittee on Treasury, Postal Service, and General Government will come to order. We expect to have debate this morning on supplemental appropriations and, so, we are going to be moving as rapidly as possible in order that we complete this hearing and get questions in. That is a request to people at the table to make their opening statements as short as possible.

We are happy to welcome this morning the Administrator of the General Services Administration, and we are looking forward to your testimony on your budget. I know that Judge Roth is present and will be talking about the courthouse construction budget of the GSA immediately following this presentation by GSA. By any standard, the GSA budget is a very large one. Total obligations in 2001 are projected at \$15.5 billion, but most of that amount is related to revolving funds that don't require direct appropriations. Nevertheless, Congress and this Subcommittee are concerned with the management of all the funds, with the fiscal health of the entire Government, and we have an oversight responsibility for all of those \$15 billion that are being spent.

The fiscal year 2001 budget proposal for GSA requests a direct appropriation of \$871 million. That is \$737 million above last year's enacted level and most of that, \$682 million, is related to new construction and most of that, \$488 million, is for courthouses.

This is the first time in three years that we have had a budget submitted by the President that has included new courthouse construction. We were able two years ago, in 1999, to provide \$462 million for construction even though the President hadn't requested that. Unfortunately we weren't able to do any last year, and each year we fall behind when we are not able to do that. It is important that our nation's infrastructure needs are met, particularly those construction needs related to law enforcement.

I anticipate that there will be a number of questions from members about the proposed funding for courthouse construction. The way in which the budget request for courthouse construction was fashioned raises, in my mind, a number of questions. Last year we had, in Section 404 of last year's bill, a provision that prohibits GSA from using funds to develop a budget request for courthouse construction that one, was not based on a design guide approved by the GSA, courts and OMB; and second, did not reflect the priorities of the courts.

In my opinion, your budget request for courthouse construction does not meet either of these statutory requirements. The way in which both of these areas--the estimation for specific projects and the selection of specific projects--were handled in the GSA budget request creates difficulties for this Subcommittee.

Your budget request includes two other increases for which I think we need additional information. The first of these is

an increase of \$15.4 million for critical infrastructure protection, and the second is an increase of \$8 million for the disposal of excess and surplus real estate. In addition, I have questions on the funding requested for the Presidential transition and for repayments related to costs incurred by the GSA in the relocation of the FCC into the Portals II building. I also take note of your recent decision to close 2 of your 4 distribution centers.

I hope we can get to all of those questions but some of them may end up being submitted for the record. That concludes my opening remarks. Mr. Hoyer is not here. We will hear from him when he does get here. So, Mr. Barram, let us go directly to your opening statement. As always, it will be put directly in the record in full and if you wish to summarize it, we will go directly to questions after that.

Mr. Barram.

SUMMARY STATEMENT OF MR. BARRAM

Mr. Barram. Thank you, Mr. Chairman, and good morning. Good morning, members of the Committee. Thank you for the opportunity to appear before you today to discuss our fiscal year 2001 budget request. You have my long statement. I certainly won't repeat it. I would like to make a few points about GSA and our budget and then I would look forward to your questions.

We have a good story to tell at General Services Administration, where we celebrated our 50th anniversary in the last year and now look forward to new challenges. Let me introduce, first, some of the key members of our team at GSA. Bob Peck, the Commissioner of the Public Buildings Service is here; Donna Bennett, Deputy Commissioner of the Federal Supply Service; Sandy Bates, who will be replacing Dennis Fischer, as the Commissioner of Federal Technology Service; John Sindelar, Chief of Staff for Office of Governmentwide Policy; Bill Early, our CFO; Debi Schilling, our new Director of Budget; to my left, your former colleague, Bill Ratchford; and Martha Johnson, Chief of Staff.

There are two major topics I would like to discuss today. The first is change and innovation. GSA has been one of the reinvention engines of the Federal Government during the 1990s and we intend to continue on this path. It isn't just technology, it's how you do things.

We have many new initiatives underway in our agency. One is partnering with Federal agencies, like the Census Bureau. We are managing the massive logistics of building up, furnishing and then disposing of a national network of temporary offices for census takers. We are also partnering with the Internal Revenue Service, with whom we are working to plan and implement their four new headquarters offices and the new shared services function.

Inside GSA we did something pretty special in our Public Buildings Service by thoroughly tying performance measures to budget allocations and performance awards. Our people know what success is and expect to be held accountable for it. You might want to ask Bob Peck about that during this hearing. And as you would expect, we are on top of new technologies and the

Internet. We were in the forefront of efforts last year to meet the Y2K challenge, and we are heavily involved in a critical infrastructure protection program that you mentioned in your opening remarks.

More than any other nation, America is dependent upon its information technology and cyber space. GSA has a vital role to play in protecting critical systems throughout the Federal Government. Technology and the Internet also offer opportunities to change the way we do business and to get a better deal for our customers. GSA's customers use the Internet to purchase a wide variety of goods and services through GSA Advantage!TM, our on-line ordering system.

Change can also bring some tough challenges. We recently made the decision that you noted in what became a widely publicized consultation with our labor partners to streamline our supply distribution system by closing all but 2 of our warehouses.

We will be able to minimize the impact of these closures on our work force by a number of means, including buyouts, and we greatly appreciate your Committee's support of buyout language approved in the fiscal year 2000 appropriation bill.

In telecommunications, and in every product and service we sell, we want to give our customers the best deal available. Our recently awarded metropolitan area acquisition contracts have created the vehicles for local telecommunications savings of up to 70 percent, in 7 cities today, with procurements for 13 additional cities under way. Our long distance rates, our airline city pair fares and vehicle leases also offer customers great prices and value.

Because we are so change-driven and customer oriented, our business volume continues to grow as our customers take advantage of the value we offer them. Our total budget is \$15.5 billion, as you noted, and 94 percent of that ends up going to the private sector with the remainder mostly in salaries and benefits for our employees.

Even though our business continues to expand, our employment is about 30 percent less than 1993 levels. We are, indeed, doing more with less.

The other major topic I will discuss briefly today is our capital program for the Federal Buildings Fund. Our budget request, as you noted, includes a significant construction program at \$780 million, including funding for courthouse construction. It also includes funds for several border station projects, FDA headquarters consolidation, a new ATF headquarters, a new United Nations U.S. Mission facility, a new FBI facility in Houston, as well as several advance appropriations. Now, I know that courthouse construction has been a particular concern to your Committee in the past and we are pleased to see funding of the new courthouses addressed.

As in past years, we are requesting that most of our construction program be paid for from new appropriations to the Federal Buildings Fund. Our capital program also continues to emphasize funding for repairs and alterations, with a request of \$720 million. As you know, more than half of our Government-owned buildings are over 50 years old and we must have significant R&A programs to maintain the value and condition of

this \$33 billion asset base: buildings that belong to the American people. Our request will also fund recapture of vacant space and investments in security enhancements such as glass fragment retention.

We are proud of the work that we are doing in our Public Buildings Service and throughout GSA. We have reduced non-revenue producing space, achieved customer satisfaction ratings of 80 percent and managed operating costs per square foot at 13 percent below private sector.

We have also improved our management of resources in the Federal Buildings Fund with highly accurate revenue forecasts.

Thank you, Mr. Kolbe and Mr. Hoyer and members of the Committee for all the support and guidance that you have given to me and the agency over the years. It has made our jobs easier, and we deeply appreciate the confidence that you have shown us in letting us manage GSA.

Thank you.

Mr. Kolbe. Thank you very much, Mr. Barram.

Before we go to questions, I will call on Mr. Hoyer for his opening remarks.

MR. HOYER'S OPENING REMARKS

Mr. Hoyer. Mr. Chairman, I apologize for being late. I certainly do want to welcome Administrator Barram and all the leadership of GSA and other personnel of GSA. GSA, I think, has made marked progress in terms of its efficiency of operation, and in terms of the dollars that we spend on construction and management of facilities.

In addition, I think that they have been focused on reduction of duplication, obviously, one of the reasons for GSA's advent in the first place. I want to say that I am pleased to have them here, and look forward to discussing with them some of the Committee's concerns.

COURTHOUSE CONSTRUCTION

Mr. Barram, you mentioned courthouses. You may have, I don't know whether anybody told you about the conversations we had yesterday with Jack Lew, of OMB, in terms of the level of construction in 7 of the courthouse projects; there are 19 as I understand it ready for some degree of expenditure, although as Jack Lew testified, many of those are land acquisition-only, not construction, so that perhaps we will not delay those. I have been very concerned and I share the Chairman's concern with respect to our sporadic funding of courthouse projects.

Obviously, we are building up a backlog and that is not good because what that will do is build up a bow wave that will crash down on us with a requirement for very big dollars at some point in time. So, I am hopeful--thank you very much--I am hopeful--now I can see what you said----

[Laughter.]

Mr. Hoyer. I am very hopeful--I can even see what I am supposed to say----

[Laughter.]

Mr. Hoyer. Thank God for computers. The lazier my eyes get, the bigger the print gets. It is a great synergy. But in terms

of the courthouses, as you know, when I started on this Committee, of course, deficits in the 1980s were not of concern to the Administration and, very frankly, not much concern to the Congress and we ran up great deficits, so, it really wasn't a problem in terms of caps or worrying about what you spent in this Committee or any other Committee because it just meant you were \$10 million, \$20 billion more in debt that year in your operating deficit.

Happily, we are not there now and we are constrained, as we ought to be and we are fiscally making great progress, but at the same time we need to be able to continue to invest in our infrastructure, both in terms of maintenance and in terms of new construction to accommodate growing populations and assuring the effectiveness of our judiciary. The last point I would make, I don't know whether the Chairman made this in his opening statement, but I am concerned that we do not yet have a consensus which I think this Committee would like to see in terms of the parameters of courthouse construction as it relates particularly to the provision of a courtroom per judge, not senior status judge, but active judges.

I know that Ms. Roybal-Allard will have a concern about that, I am sure will probably have some questions on that, so, I won't go into it. But it is a matter of concern because we have a number of studies, as you know, from Rand, from other places and I think it was the Rand study that said, frankly, we don't have enough information now to make a hard judgment and I think we need to get there.

Mr. Chairman, I know I have taken more time than I should have but I thank you for giving me this opportunity.

Mr. Kolbe. Thank you very much, Mr. Hoyer.

Let us get into questions and we will try to adhere, I will adhere strictly to the five-minute rule.

SECTION 404, REQUIREMENTS FOR COURTHOUSE CONSTRUCTION REQUESTS

So, I am going to get right into the courthouse construction. As I mentioned in my opening remarks, the last three years we haven't seen anything in the President's request. The middle of those two years, 1999, we were able to put some money in there. Now, you would think with the President's request including money for courthouse construction, we wouldn't have any real issues but that isn't the case. And the problem is that we have got a set of conflicts. I am going to make this point with the judges, but the irony is that the judges who supposedly arbitrate in our society are not here in that capacity. Congress is here in the position now of trying to arbitrate between the Judicial Branch and the Executive Branch over the priorities and the guidelines for courthouse construction.

So, I want to get into that by asking you, is the budget request that is submitted by the President in compliance with Section 404 of Public Law 106-58, the appropriations bill of last year?

Mr. Barram. The whole subject that you are raising is complicated. So, I am going to let Bob Peck answer a lot of these, all right?

Mr. Kolbe. Fine.

Mr. Barram. Because we have talked about it a whole lot and

you have identified the real issue. I guess the answer to that is yes and no. So, let me say that it is yes and no, and let's talk about it until you are comfortable that we have fully answered your question.

Mr. Peck. Mr. Chairman, In this sense, the answer is, yes. The Committee asked us not to spend money to develop a plan that didn't meet the design guide. The budget request, which we submitted to OMB, met that requirement. We did submit a plan which met the design guide requirements. The recommendation from the Administration doesn't meet the design guide.

Let me be clear about what that means. The design guide says that there should be one courtroom for every active judge. When you read it carefully, it looks like that is a pretty hard and fast rule--it doesn't say no more than one judge per courtroom per judge and it doesn't say any less. So, we don't want to quibble about that. We think that is the requirement.

The Administration's proposal for the budget this year suggests that there be a rule established of two courtrooms for every three active judges. That is the first part of Section 404. I hope that is a clear answer.

Number two, Section 404 also asks that we prepare a plan that makes use of a courtroom utilization study provided by the courts. I am not quite sure what that referred to because there has been a little bit of confusion. The courts did give us a courtroom utilization study. What their study said was that for each project we were considering, here is how many courtrooms we would need to meet the design guide requirement. As you know, in part at the urging of Congress in past years, the courts have begun a different kind of courtroom utilization study, a study to determine whether we actually need one courtroom per judge.

We are told that that study is available in draft but has not yet been released and I think you might talk to----

Mr. Kolbe. Excuse me, let me interrupt you because time is very limited here. The Section 404 says that you won't transmit to us a budget request for 2001 that does not meet the design guides standards for construction as established and approved by the General Services Administration, the Judicial Conference of the United States, and the Office of Management and Budget. Is such a request in place by the three?

Mr. Peck. Well, actually, OMB is not a party to the design guide, and GSA is a consultant. So, it is the court's design guide.

Mr. Kolbe. So, the law is not complied with?

Mr. Peck. It is absolutely true. The request that the Administration sent up does not comply with the design guide.

Mr. Kolbe. No. You don't have a design guide that is approved by all three. So, there is no common----

Mr. Peck. That is correct. There is no design guide approved by all three.

Mr. Kolbe. That is the question I was trying to get at. On courtroom sharing, then, for the request that you have submitted, did you use the U.S. Courts' design guide as your model, including the courtroom sharing policy for developing the request?

Mr. Peck. Again, GSA did use the court's design guide as a model in submitting its request to OMB, but the

Administration's submission does not adhere to that design guide.

Mr. Kolbe. To the design guide?

Mr. Barram. Yes, the courtroom sharing.

Mr. Kolbe. On the courtroom sharing. I am talking about courtroom sharing.

Mr. Peck. On the courtroom sharing----

Mr. Kolbe. Your request does conform to those?

Mr. Peck. Well, the request that we submitted to OMB did, but that is not the request that you have seen.

Mr. Kolbe. No, no, I don't mean the request. I mean the request that you submitted to OMB. But I see some differences on the sheet between your revised request and what the courts have here.

Mr. Peck. That is correct. We submitted an original recommendation which was in agreement with the courts. There were three requests. First, we made a submission based on our discussions with the courts. Also, we made a submission to OMB that was called a departure list--a list of courthouse projects which adhered strictly to the design guide in this sense: The design guide says that a judicial council, a circuit council of the courts, can approve waivers to the design guide. So, that, for example, you might have more courtrooms for senior judges than the design guide would strictly require, or an additional special proceedings courtroom which is larger than the others. Our initial request to OMB included those kinds of things.

Our second submission to OMB, an appeal, was called a no-departures program from the strict design guide requirements.

The third submission was in the final President's submission of the budget, which went to the sharing scheme of two courtrooms for every three judges.

Mr. Kolbe. I have got--my time is already up--I have got lots more questions here. Let me just make one last question on going back to the guideline required by Section 404. It is in a general provision for the General Services Administration, which would put the onus on you to do so. Can you tell me whether or not you have begun a process, even? It says you weren't supposed to submit a budget that wasn't done with a guideline-approved, that was agreed upon by all three of the agencies I just mentioned: OMB, yourself, and the courts. Have you begun a process of trying to get that agreement?

Mr. Peck. We have had a couple of discussions with the courts, but the short answer is that we have been waiting for the courts utilization study, which they have been doing this year, so that we could have discussions with them based upon it. That study will be the factual basis upon which we need to base our discussions.

Mr. Kolbe. Okay. Just as an example of how very contentious and difficult these issues are, just before the hearing began, Congressman Leach gave me a letter relating to the request for his courthouse in Cedar Rapids. It makes a compelling case about the need for it, and how long this has been in the works, and the shortage of space. And this is the difficulty this Committee has in trying to balance these different priorities.

Mr. Hoyer.

Mr. Hoyer. Thank you very much, Mr. Chairman.

I won't ask questions about the courthouse construction

because our time is very brief. We have got a rule on the floor that is coming up. But, obviously, we share the concern and, Mr. Chairman, as you recall, what I referenced when I was talking about consensus is that there is not agreement here. And in fairness to the Committee, the Chairman has been an extraordinary leader in cuing to the priorities that were submitted by GSA and the Administrative Office of the Courts, without reference to political consequences of those particular projects. That is an extraordinary achievement that the Chairman has done and I admire him for it, but in order for us to sustain that we are going to have to have a consensus in effect so that we don't have argument intra-administration, I would think. Not that the Administrative Office of the Courts (AOC) is in the Administration; it is not. It is an independent branch of Government. I understand that. But the fact of the matter is that OMB submits the budget, and you submit it to OMB.

Mr. Chairman, you didn't ask for but I presume you are going to submit to us your request that was made to OMB.

Mr. Peck. I think we have already submitted that to staff. Mr. Kolbe. That is it.

Mr. Hoyer. Okay. So, the \$36.2 million for the Los Angeles courthouse. I notice the Administrative Offices of the Courts, in revising its numbers, almost uniformly, not absolutely, submitted the same numbers they had submitted originally.

Mr. Peck. I think that is correct.

PROPOSED EXECUTIVE ORDER ON TELECOMMUNICATIONS ACCESS

Mr. Hoyer. That does not surprise us. I say that as an aside, but we will have to talk about that. Let me ask Mr. Peck a question. It has recently been brought to my attention that the proposed Executive Order is being circulated that would require owners of certain buildings with Federal Government tenants to allow all telecommunications providers use of space in such a building to install and maintain telecom equipment--as you can imagine, we are hearing a lot about this--and would require the Government's lease to contain provisions to that effect.

Did the GSA request this Executive Order; and, if so, what was the rationale?

Mr. Peck. We did not request it.

Mr. Hoyer. All right. Can you comment on it?

Mr. Peck. Yes, sir. I have a personal opinion on this which doesn't count, but there is some concern on the part of what are called the alternative telecom providers or the competitive new providers that they don't have access to private sector buildings. If you ask the building industry, they will tell you that they are trying to provide access the same way they do business normally. If people come to them, they will negotiate a deal, and they claim they want to have alternative telecommunications available to their tenants.

The proposed Executive Order states that when GSA signs a lease in a private building, we would require the building owner to agree to provide access to all comers on a nondiscriminatory basis. Our concern, from a strictly GSA viewpoint, is this: We lease space in about 6,400 private

sector buildings. In 35 percent of those buildings we don't even lease 50 percent of the space. So, we think that our leverage is not so strong in telling building owners to agree to this kind of a condition, which the building owners tell us they don't like.

If our leverage is not so strong, that generally means that when we go out on the market, with this kind of a requirement, we believe that one of two things will happen.

First, in some markets, we think that some landlords or building owners just won't offer to lease to the Government. The less competition we get, we can pretty much assume that, on average, our lease rates will be higher.

Second, there are cases in which we think that if they do offer to lease to us, they will tack on a charge, because an Executive Order like this comes with some kind of sanction in case they are found not to be in compliance. Most building owners are then going to say, ``All right, I am going to have to hire attorneys, and go through an appeals process.''

We are concerned, therefore, that we would get less competition and possibly have higher rental rates if we implement that requirement. One final thing is that we have worked really hard to cut out of our leases as many things as possible that make our leases look different from the private sector. We want to be in the market just like the private sector owners to the maximum extent possible. To us, this proposal would complicate our lives and tell the people who lease for us that they have got yet another hoop they have to make people jump through that they are not used to in the private sector.

Mr. Hoyer. I had other questions related but I think that your answer was a pretty comprehensive one and covered those. I may submit them and if you think you haven't answered all those issues. Because I am sure that is going to be--any time you deal with a telephone or telecommunications on these buildings because their numbers are so large it is a huge issue for us.

Mr. Barram. Let me just add one thing. Go ahead.

Mr. Peck. And I would just note. This is the GSA position that we have communicated. It is not necessarily the Administration's final position on this issue.

Mr. Barram. What I was going to say was that we spent a lot of time talking with people who feel the other way so this is not a 99-1 kind of thing. It is more complicated and I think Bob has done a good job of explaining it. But, you know, there is a reason why you want to try to help emerging telecommunications companies get access so they can be more competitive.

Mr. Hoyer. Well, perhaps I will submit them for the record, and if you think you need to amplify your answer further, please do so. I agree with Mr. Barram, I think it was an excellent answer.

AFRICAN AMERICAN BURIAL GROUND

African American burial ground. Congressman Rangel, I know, is very interested in this. In 1991, as you know, it was discovered during the excavation of a new Federal building at Foley Square in lower Manhattan. In 1992, \$3 million was set aside from the project construction to memorialize their

heritage. I understand that much of the work has begun but additional funding is needed to complete the work. Can you elaborate on this for me?

Mr. Peck. We are not quite sure how much more funding is needed, but, to date, we have spent about \$21 million on excavation, on moving the remains and having them scientifically studied at Howard University, and on preparations to build an interpretative center on the site. I am told that our estimate is that it will require another \$10.2 million to complete the job.

Mr. Hoyer. That is a total of \$33.2 million?

Mr. Peck. That is \$33.2 million, yes, sir.

Mr. Hoyer. Mr. Chairman, I don't know how many more rounds you are going to get in, but Mr. Wolf, I am sure----

Mr. Barram. Mr. Hoyer, Thurman Davis has spent an awful lot of time on this, so, he would be happy to talk to you about it in any more detail you need.

Mr. Hoyer. Terrific. I would be glad to talk to Mr. Davis about it.

Mr. Wolf [presiding]. Mr. Goode.

Mr. Goode. Thank you, Mr. Chairman.

DISPOSAL OF SURPLUS REAL PROPERTY

I noticed that you are asking for an increase of \$8 million for the disposal of excess and surplus real estate. Can you elaborate on that and just tell me what you want to dispose of?

PROPERTY DISPOSAL--ARMY AMMUNITION PLANTS

Mr. Peck. There are a couple of things. For example, we are disposing of about eight Army ammunition plants around the country. We need to do some upfront work on these plants before they are available for disposal, such as environmental studies and working with the communities to come up with redevelopment plans. And for those properties and others we don't yet know about, because agencies can come to us at any time and say, here is----

Mr. Goode. Where are these eight Army facilities?

Mr. Peck. One is in Tennessee. I will get you the list. There is a volunteer Army ammunition plant. There are seven others, including Badger, Wisconsin, Iowa, and Kansas.

[The information follows:]

ARMY AMMUNITION PLANTS FOR DISPOSAL

1. Badger, Baraboo, Wisconsin.
2. Kansas Army Plant, Parsons, Kansas.
3. Sunflower, DeSoto, Kansas.
4. Volunteer, Chattanooga, Tennessee.
5. Longhorn Army Plant, Marshall, Texas.
6. Forest Glen, Montgomery County, Maryland.
7. St. Louis Army Ammo Plant, St. Louis, Missouri.
8. Charles Melvin Price Support Center, Madison City, Illinois.

Mr. Goode. You all are just going to get rid of those

facilities and what, give them to the local governments or what are you going to do with them?

Mr. Peck. Well, under the law there are lots of different ways we can go. For example, there are provisions under which a community can claim them for no charge if they use them for certain public purposes like education or security, prisons, and some health purposes. If they aren't claimed for that, then we would put them up for auction. That is the general procedure.

PROPERTY DISPOSAL--NATIONAL GROUND INTELLIGENCE CENTER

Mr. Goode. Let me ask you, what are you going to do in Charlottesville with the National Ground Intelligence Center. The Department of Defense had it, and they are going to move out in a few months. We are very concerned in Charlottesville of what the fate of that building is going to be.

Mr. Peck. I know, Congressman. The Army, through the Military Construction Appropriation, received an appropriation to put the National Ground Intelligence Center in an Army site in an Army building. They have told us they no longer have a use for the current building. Part of our role in GSA is to be a broker inside the Government. We have looked around to see if any other Federal agency might need the property. We haven't found either a tenant that would come to GSA normally, or any other agency that wants it. So, we are beginning the process of disposing of the property, and we have begun talking, as we always do, with city officials in Charlottesville, to talk about what it is that they might want to do with the property. We don't yet have a plan, and I can't yet tell you what the process is precisely going to be on that one. But, obviously, we will be in touch with you and talk about it as we go.

Mr. Goode. And some of your people have met with the city officials but we are very concerned that the building will be vacant, or--we would like to see another Federal agency in but it doesn't look like it at this time.

Mr. Peck. We had a hunch you might ask this question, and I can tell you we have looked more than once to see if we could find a Federal tenant and haven't found one yet.

Mr. Goode. But you would be open to doing like you are going to do on those other eight facilities in Tennessee, Wisconsin, Iowa and some other places, that maybe letting the locality have it if they---

Mr. Peck. If they qualify under the law. Under the Property and Administrative Services Act of 1949, there are a whole slew of provisions under which a community can claim them for a reduced price, which can often be down to nothing.

Mr. Goode. Thank you, Mr. Chairman.

Mr. Wolf. We should probably stay three more minutes. Ms. Roybal-Allard.

Ms. Roybal-Allard. Thank you very much.

FEDERAL COURTHOUSES IN LOS ANGELES

Mr. Hoyer was correct in that I have a deep concern about the situation in Los Angeles with regards to the courthouse. Right now the existing facility is a very old courthouse built in 1938 and because of the fact that it lacks the necessary

space, they have had to divide their operations between the original courthouse and a facility that is several blocks away.

As you are well aware, this creates not only inefficiencies, but the U.S. Marshal Service has said that it is creating a ``life threatening situation.'' As a result, and in responding to the seriousness of this situation, GSA originally requested \$36.2 million in funding for site acquisition and design of a stand-alone, 51-courtroom courthouse in Los Angeles. OMB not only reduced the amount by several million but actually changed the plan for the construction of the courthouse.

Could you please describe the process that GSA followed to reach the conclusion that a stand-alone courthouse is the best solution to the crisis in Los Angeles?

Mr. Peck. Yes, Ma'am. Judge Hatter mentioned that he has a file that goes back to 1980 on this particular project. There have been a lot of studies. We have looked at various ways of constructing a courthouse because no one questions the need for a new courthouse in Los Angeles. You have described well the current situation, which is not tolerable.

We have talked mostly about whether there should be one new building that includes all of the courtrooms for the district court or--and this is what we have now recommended--whether we continue to use courtrooms in the Roybal Building and construct a companion building, which means a building that may be attached, but probably located across the street. We estimate that building a companion building and continuing to use the Roybal Building as a courthouse saves about \$85 million in total upfront costs on the project design and construction.

I think that is the fairest way to describe it. There are some additional savings because then we went to the sharing courtroom model and we reduced the number of courtrooms in the building, which further reduced the cost.

Ms. Roybal-Allard. Now, to leaving the courtroom sharing issue, aside for a little bit, you mentioned that there is an upfront savings associated with building a companion facility rather than the stand-alone courtroom house. However, your staff informed me that if we look at the 30-year projections that there is no savings from building a smaller building annex; is that correct?

Mr. Peck. In the General Services Administration, we try to view a project the same way as a private sector developer would view it. We look at the rental stream versus the cost of operations over time. Viewing the project this way, it looked to us like a stand-alone building and the companion building came out about the same.

Mr. Wolf. Excuse me. Maybe we should--you can begin when we come back. We will be done in about five minutes. And then you can----

Ms. Roybal-Allard. Is my time up or do I have more time?

Mr. Wolf. No. You still have a few more minutes. But I didn't want to miss the vote. So, we will be right back.

Ms. Roybal-Allard. Okay. That is fine.

[Recess.]

Mr. Kolbe. The Subcommittee will resume.

I will go to questions from Mr. Price.

RESEARCH TRIANGLE PARK--NORTH CAROLINA

Mr. Price. Good morning, welcome. I am pleased to have all of you before the Subcommittee. Let me say just a word, first, about a matter that we are already working together on that I just want to highlight here briefly, and that has to do with some of the implications of the move soon to come of the Environmental Protection Agency from 13 rented locations into a state-of-the-art facility in Research Triangle Park, North Carolina.

It is finally done. It is 9 years in the funding with the cooperation of a lot of people in this room. Now, this is a laboratory and because of that it is not mainly funded through General Services Administration, although I must say that at an early point with the cooperation of Mr. Hoyer, when he was Chairman, we did fund some of the planning and design work through the General Services Administration. And if you see that building and the way it is coming up and how complicated the infrastructure of that building is you understand why the planning and design work took upwards of \$23 million. Anyway, it is mainly funded in the EPA budget.

Starting next year, EPA will begin moving employees from a dozen locations into this facility, and it is going to be a great thing for the efficiency of the agency and the quality of the research they do. But it does have a downside for downtown Durham, in my district. Much of the space that EPA previously had leased is in downtown Durham, and I know this Administration has made a commitment to locate Federal offices in downtowns, many of which are in dire need of revitalization. Durham is one such case.

The EPA presence in downtown Durham has been an economic anchor that is going to be sorely missed and, so, I just want to make note here that we have been working with your Atlanta office about the possibility of locating other Federal offices in some of these downtown spaces, trying to see what the options are. Your Atlanta folks have been very helpful. We have met with them. They have met with the people who are involved in managing these locations. So, I want to thank you for GSA's commitment to downtown America and to ask that you continue to work with the Durham Chamber of Commerce and with our office to try and locate some Federal agencies there, particularly in the spaces being vacated by the EPA.

Mr. Peck. Mr. Price, on behalf of the buildings people I just want to thank you. It is nice to be complimented, and, yes, that region and everyone at GSA is working hard on the downtown location policy across the country. I know they have talked to your staff about this, and we will continue to try.

Mr. Price. Good. Well, we look forward to working with you and, of course, the critical time is going to come in the next few months, as we prepare for this major move.

1122 PROGRAM

Let me now turn to the 1122 program. At last year's hearing, five members of this Subcommittee asked, as you may recall, about the so-called 1122 program, which was designed to provide State and local law enforcement access to counter-drug equipment on the Federal Supply Schedules. A program that is

very good in its purpose had gotten a bit out of bounds in the view of some of us, and we expressed concern about the extent to which the program had been expanded beyond Congressional intent to include equipment that simply had nothing to do with fighting the war on drugs.

Following that hearing, we received notice that GSA had decided to scale the program back to the 10 schedules which it had originally included. Can you confirm that the program is now being administered with only those 10 schedules?

Mr. Barram. Yes.

Mr. Price. Good. Well, in information provided for the record you indicated that there had been roughly \$3 million in 1122 sales since inception of the program in fiscal 1996, over \$1 million of that amount was attributed to year-to-date totals for fiscal 1999.

Do you now have the final totals for 1122 sales in fiscal 1999 and year-to-date totals for this year?

Mr. Barram. We do. Fiscal 1999 was \$4.259 million, in GSA. DLA was another \$113,600, and the Department of the Army was another \$174,000. Do those numbers jive with what you have? Do we know this year so far?

We don't have numbers for this year with us.

Mr. Price. All right. So, the total for fiscal 1999 is?

Mr. Barram. That is \$4.259 million.

Mr. Price. So, that would push the total from the inception up to \$7 million range, something like that; is that correct?

Mr. Barram. Does that sound right?

Ms. Bennett. That is in the ball park.

Mr. Price. So, that does indicate a huge surge in the expenditures under that program in fiscal 1999 and presumably, that would reflect the policy which has now been corrected.

Mr. Barram. But it is the 10 schedules, the 10 original schedules. And that is what we did in fiscal 1999.

Mr. Price. With the 10 original----

Mr. Barram. But maybe not for all of 1999. We probably didn't get it all because we didn't change it until after this hearing last year. So, we had half a year maybe at the most. So, half of fiscal 1999 was only the 10 schedules.

Mr. Price. All right. But in any case, it has been corrected.

Now, I understand the Senate Armed Services Committee asked GAO to review the 1122 program last fall. That report hasn't yet been issued but you indicated for the record last year that you were on your own undertaking a thorough review of the program. I wonder if you could update us on that. What have you done in that regard to ensure that the current administration of the program, the ongoing administration is consistent with Congressional intent?

Mr. Barram. Donna Bennett is the Deputy Commissioner of the Federal Supply Service.

Mr. Price. Good, thank you.

Ms. Bennett. Following our discussion last year, we reviewed with staff the decisions that had been made that led to the extension. We discussed with them the misunderstandings or misperceptions that those actions had created and agreed that we would simply go back to our original practice, and that there would be no further discussions of expanding the program.

We are on occasion approached by State and local Governments who would, nonetheless, like to see the 1122 program expanded, and our position is very firm on this, that we cannot. We understand that the intent is that it not be expanded, and we will not expand it.

Mr. Price. So, as far as--let me make sure I understand you. Your position is that the change in policy or the reversion to the previous policy that you have carried out addresses the intent of the proposed review and no further review is underway?

Ms. Bennett. That is correct.

Mr. Price. All right. Thank you.

Ms. Bennett. And, if I may add, I believe that at the time that we reported back to you after our discussions of last year, that we made a commitment that if there were to be at any point in the future, consideration on behalf of customers who have requested expansion, that we would not take a unilateral action to expand without coming back to you.

Mr. Price. There would be that kind of consultation.

Ms. Bennett. Yes.

Mr. Price. I understand that and I do think that is the correct approach and I thank you for it.

Thank you, Mr. Chairman.

Mr. Kolbe. Thank you. We will go to a second round and we will go back to Ms. Roybal-Allard to finish hers and Mr. Wolf, if he is able to get back here.

COURTHOUSE CONSTRUCTION

Back on the courthouse construction here. You said that your submission conformed to the Judicial guidelines, but the revised request does not; is that not correct?

In your final submission, you do not adhere to the Judicial guidelines?

Mr. Peck. That is correct.

Mr. Kolbe. Okay. What are the differences?

Mr. Peck. The differences----

Mr. Kolbe. Specifically.

COURTROOM SHARING

Mr. Peck. Okay. The differences are on various projects where we have reduced the number of courtrooms. We have taken a look at all the courtrooms available in cases where there is an existing building. When we are building a new one, we have added up the number of courtrooms and said that the goal should be to provide two courtrooms for every three active judges. We would then continue with the design guide requirements on senior judges--those who are either retired or semi-retired.

Mr. Kolbe. So, you are using a courtroom sharing?

Mr. Peck. Yes, sir.

Mr. Kolbe. And that courtroom sharing decision is based on what?

Mr. Peck. Well, it is difficult to get hard evidence on any of this.

Mr. Kolbe. Well, that is my concern. I mean we really don't have any hard evidence. I mean, I am inclined to agree with you

on the courtroom sharing, but we don't have any evidence, do we?

Mr. Peck. Well, we are between a rock and a hard place on this. All of us in GSA and in the Administration have said for several years that it appears to be possible to share some courtrooms. The Administration depended on some numbers----

Mr. Kolbe. If I may interrupt, isn't the Seattle design, doesn't the courts' submission of that anticipate courtroom sharing? Am I correct?

Mr. Peck. Yes, sir. The judges in----

Mr. Kolbe. So, you have judges in one place that are willing to share?

Mr. Peck [continuing]. Agreed to share. And other judges have shared in part just because of the facts of their situation, which are, there aren't enough courtrooms to go around where the number of judges has expanded.

The OMB----

Mr. Kolbe. Whoops. Stop right there.

Mr. Peck. Okay.

Mr. Kolbe. So, have you looked at that? Has anybody done a study to find out whether or not justices suffer because we haven't been able to schedule trials in those places?

Mr. Peck. Well, this is where we are. If I could just go back for a second. The Administration position is based on a GAO study--admittedly not a scientific study--several years ago that looked at courtroom utilization and said that in no case did they find more than 65 percent of the courtrooms utilized. They said that if a courtroom was utilized at any point during the day, it was counted as used.

So, I think, OMB therefore said 65 percent, 67 percent--it is a two-thirds scheme. This year the courts did commission a study. We all--I think this Committee and the authorizing committees as well--have urged the courts to do a study on courtroom utilization to answer the very question you ask: Where there is sharing, is it more difficult to administer the system of justice? I think you have to ask the courts. Again, we are in a tough position second-guessing how you run the administration of justice or a courthouse.

I do have a suggestion. I think Mr. Hoyer asked a fair question when he said the Judicial Branch hasn't been able to solve this, and we are asking the Legislative Branch to do it. I think you said that, too.

And I think that one thing we really need is to get the study from the courts as soon as we can.

Mr. Kolbe. Well, we will ask them about that.

PRIORITY LIST FOR COURTHOUSE CONSTRUCTION

Let me just ask, again, because my time is limited here. Do you agree with the courts' priorities in terms of the listing as to which ones, the order that they are in?

Mr. Peck. Yes, sir. And we have strictly followed that.

Mr. Kolbe. You strictly followed that?

Mr. Peck. Yes, sir. I know it doesn't look like it----

Mr. Kolbe. It doesn't look like it.

Mr. Peck [continuing]. When you go down the list.

[Laughter.]

Mr. Kolbe. Not with regard to Springfield where you put zero in and they still have it in there.

Mr. Peck. Right. Well, here is the difference. We took out Springfield and Eugene, Oregon, simply because in fiscal 2001 we won't be ready to begin construction on both of those.

Mr. Kolbe. But surely you told the courts that?

Mr. Peck. Yes, sir.

Mr. Kolbe. Why did they persist in putting it in? I guess I will ask them that, but why did they persist in putting it in?

Mr. Peck. Well, here is the short answer. If the funding is made available, we think we will be ready to build those in fiscal 2002. I suspect that the courts--you will have to ask them--figure that once the money is available, it remains available and, so, the sooner you get it, the better.

For us, we are only asking for funding for those projects that we think that we can actually get underway in that fiscal year.

Mr. Kolbe. So, that was the case also with Fresno; is that correct?

Mr. Peck. Yes, sir. That was the case.

Mr. Kolbe. There is nothing in your material here which says in the case of Springfield, late start, can't obligate.

Mr. Peck. Right.

Mr. Kolbe. You don't have anything on Fresno. Is it the same thing there, you can't obligate it?

Mr. Peck. I am going to be perfectly candid. On Fresno, at the time we submitted the budget, we didn't think it was going to be ready for construction. The design has moved faster than we thought. We could conceivably obligate for construction in fiscal 2001 on Fresno, I believe. That information became available after the budget.

Mr. Kolbe. So, just to clarify. The only case where you do not follow the courts' priorities is where in your estimation you are not going to be able to obligate or start the project in the coming fiscal year?

Mr. Peck. That is right, sir. OMB established an overall limit within the discretionary budget for how much the Administration was prepared to spend on courthouses, and that determined our cut-off point. So, you will notice that there are a number of site and design projects which are not funded, beginning with Buffalo, New York, and running down through the list. Those are also not funded because there just wasn't enough money under the OMB limit.

LITTLE ROCK COURTHOUSE ANNEX

The one exception to that--I want to be clear on this because I know people have asked about it--is Little Rock, Arkansas.

Mr. Kolbe. Why Little Rock?

Mr. Peck. Little Rock is the exception because all the others are sites and designs for which we haven't spent any money--just haven't gotten started. We actually got funding for design of Little Rock some years ago. We have gotten into it, we have increased the scope of the project, and, so, we need a little more money to finish the job.

Mr. Kolbe. So, this is basically a redesign or an addition

to the design?

Mr. Peck. Yes, sir.

Mr. Kolbe. Okay. My time is up here, but I still have more questions on this and I have some questions on transition. We will go to Mr. Wolf for his first round and back to you for a second round.

Mr. Wolf?

Mr. Wolf. Thank you.

Welcome. I have two questions, one to Mr. Peck and one to the Administrator.

DRUG ENFORCEMENT AGENCY LEASE

You are aware of the problem on the Drug Enforcement Agency (DEA) lease, and I understand that things are moving along and that the September 1 date will be met. Do you want to kind of bring me up to date on where we are?

Mr. Peck. Yes, sir. For the record, we will meet the September 1 date. And I want to say to you what I have said to Congressman Moran and Congressman Davis and that is, we made a mistake on this and put the developer, the owner of the building, in a tough position. It is really unfortunate because our leasing program is really doing great things and this gives it a black eye.

We will move the DEA out by September 1st to an interim location. And then they will be in a permanent location in about a year or a year-and-a-half later.

TELEWORK

Mr. Wolf. Well, I appreciate that and I just wanted to thank you for that.

Mr. Administrator, we have pushed in the Committee and Mr. Hoyer has been really a strong ally on a lot of family-friendly things for Federal employees. There was a study by George Mason University showing that Friday has lighter traffic than any other day of the week. You have noticed that. Most people call it the Friday effect.

Mr. Barram. I notice it is mainly attributable to when you are in session. [Laughter.]

Mr. Wolf. That may have some bearing. I hope that won't come out of my time. [Laughter.]

But that could be. But we have counted the cars on Monday, Tuesday, Wednesday, and Thursday. We have also counted them on Friday, and there is a 2.5 to 4 percent difference. And George Mason has done a study showing that for every 1 percent of the people that we get to telework we reduce traffic congestion by 3 percent. So, if we get 3 percent of the people to telework we basically get to beyond the Friday effect every day and we need the Woodrow Wilson Bridge and we need to widen I-66 inside the Beltway and we need to extend Metro. I am for all those things.

But we really need to promote telework. Also the study showed that the productivity of people that are teleworking is as high and in some respects, frighteningly so maybe, even higher, also people who have handicaps, different things.

There is an Executive Order that has been laying around for months. I put an amendment into the Appropriation bill which

somebody told me may be knocked out today on a point of order, which would really be disappointing. This should be relatively noncontroversial.

For instance, in my State, Senator Robb has the same bill in that I have. Former Governor Allen, who is running against Senator Robb, is in strong support of this. He has contacted me urging me, he is writing people, urging that they do it; on the House side, I don't speak for Mr. Hoyer, but Mr. Hoyer, Mr. Moran and others. It should be a noncontroversial issue. Since the whole telework and the telecommuting centers have been under your jurisdiction, I would ask that you weigh-in and help us to resolve this issue. I don't know if there is a political thing. I wrote the White House and they wouldn't even answer. I couldn't even get an answer.

And I am not a particularly partisan person. I would have to say I am not a partisan person. This ought to be done. Because we are at gridlock. You had a problem on I-295 today over there and this ought to be done this week. And I just ask you, you don't have to kind of--I mean I am not grilling you, that is not the purpose of this--but since you are the so-called advocate for, if you would go back and ask the Administration to sign this Executive Order, which DOT has drafted, it is on the President's desk, by the end of the week. And if you have any comments about it. But we are reaching gridlock in this region and this could almost solve a lot of the problem.

Mr. Barram. I am not sure what the Executive Order says. I thought about this a lot but---

Mr. Wolf. It says that those who have positions in the Federal Government will be permitted to telework one day a week. It also gives a Metro check, a financial advantage to the Federal employee to use the Metro. I mean we all paid a lot of money for the Metro, and more people should use it. It also has van pools. You also have a policy to relocate Federal agencies by Metro stops.

It also gives preference to car pools parking in Federal buildings. It really is kind of your issue. It is your issue, it is OPM's issue and I don't know how DOT---

Mr. Barram. I mean I feel at least half again more passionate than you do about the subject, believe me.

Mr. Hoyer. Don't overstate the case. [Laughter.]

You have not seen Mr. Wolf's passion which is hard for any of us to replicate much less surpass.

Mr. Barram. Then I feel as passionate as you do. [Laughter.]

It is way beyond my understanding why the culture of the Federal Government isn't changing more rapidly toward basically allowing anybody to telework at any time he or she thinks they can be more productive doing it.

And I have been in all kinds of discussions and we have been trying to lead the whole Federal Government in this. But there are still lots of people who think if you are not in the seat you are not working, which means that somebody just came to the job, did not necessarily wake up that morning to get results. And you have to change your whole paradigm, too, thinking about my job as a manager. If I have 10 people working for me, I have got 10 people who are supposed to get some

results; not who are just supposed to be in the office.

Mr. Wolf. Well, that is what this Executive Order does. It mandates it and it is a nonpartisan or bipartisan thing. I would just ask you if you could go back to the White House today and ask and give Mr. Hoyer--because Mr. Hoyer's district and mine are kind of facing the same problems--some sense as to whether the Administration is going to sign it, when will it be signed, and what is the delay? Because I understand that Transportation and Infrastructure (T&I) may be objecting on the floor today because of a point of order on jurisdiction.

If they do, I plan on trying to put it back in, in the conference. But, obviously, the easier way would be to have the President do it, and do it quickly.

So, if you could just check and get back maybe to Mr. Hoyer and Mr. Kolbe and myself today as to some sense of where it is and whether it is going to happen, it would make a big difference.

Mr. Barram. I will be happy to do so. I suspect there are some subsidy issues in there. I bet you that OMB is working on studying the effect of those subsidies.

Mr. Wolf. Well, it has been seven and a half months now, and that could be phased in, and telework has no subsidy to it at all.

Mr. Barram. I will look at it.

Mr. Wolf. The only subsidy would be on the Metro check. But on the subsidy, that issue could be phased in. If you could do that and get back to us by the end of the day and Mr. Hoyer, I know you feel the same way, and Mr. Barram, just let us know what the status of it is. Is it going to happen? And when do you expect it to happen?

And I thank you, Mr. Chairman.

Mr. Kolbe. Thank you, Mr. Wolf.

Ms. Roybal-Allard, you still had about three minutes I think on your first round.

Ms. Roybal-Allard. In the interest of time I will submit the remainder of my questions for GSA for the record.

Thank you for the opportunity, I appreciate that.

Mr. Kolbe. Thank you very much.

Mr. Hoyer.

Mr. Hoyer. Thank you, Mr. Chairman.

I am going to submit an infrastructure protection program, which I think is obviously a very high priority for you for the record.

FOOD AND DRUG ADMINISTRATION HEADQUARTERS

Let me talk about the Food and Drug Administration (FDA) briefly. We included \$35 million last year, you requested \$101 million this year. This is for consolidation from many, many different sites. It is ultimately going to save us a lot of money, obviously, but it is a significant sum of money. Would you tell us why the \$101 million is necessary for this fiscal year?

Mr. Peck. Because we are ready for the first really large phase of construction. This is a phased construction process. We have asked for an advance appropriation as well, so, we are trying to march along as fast as we can.

Mr. Hoyer. Presumably because this is a large project, every month and annual delay in doing the whole project will be very costly; am I correct on that?

Mr. Peck. That is correct. As with the courthouse projects, we think we will be through with design and ready to go, and we don't want time to elapse between the time we finish design and are ready to award construction. We would like to go right into construction.

Mr. Hoyer. Good. And I want to thank the Chairman for his support of this project. It is not as controversial as it once was because FDA is not as controversial as it once was, but the fact of the matter is whatever you think about the objective, this project is critical to save a lot of money. It is not in my district, although it is proximate to my district.

SUITLAND FEDERAL CENTER

The second question and the last question I will ask because of our time frame. The Suitland Federal Center. As you know, I went to high school right down the block. These buildings were built when I was a kid. And if you go out there they are in awful shape. We ought not to be having Federal employees work in those conditions and those kinds of facilities. It is critical, and particularly Federal Building 3, in my opinion, we need to get on with an entire redesign.

The Metro stop is going to be there shortly, as you know. So, it has all the assets. The Naval Intelligence Center, as you know, has been built there, an excellent building. So, this can be a quality campus, if you will, but right now those buildings are in awful shape. Can you comment on that?

Mr. Peck. Not to say much other than that I agree.

Mr. Hoyer. That is enough. We will expand from that.

Mr. Peck. GSA was thinking for years that we could just go ahead and continue to renovate those buildings. We started to have the kinds of problems that you realize you just can't fix. So, we took another look at that approximately a year or two ago and decided those kinds of buildings were never meant to be that permanent, beyond a certain point. That is why you have seen us go to a recommendation for new construction on that site.

Mr. Hoyer. Mr. Chairman, I don't----

Mr. Barram. We have design in the fiscal 2001 budget.

Mr. Peck. I will note that we asked the authorizing committee to go ahead and authorize the funding which we had already appropriated for this project, and we think we will get that authorization.

Mr. Hoyer. Mr. Chairman, I don't know that you have ever been out there but these buildings are World War II tempos. They were built for temporary buildings and that is the shape they are in. It is a bad environment in which to have Federal employees, any employees working.

I appreciate your answer to the question, I appreciate your agreement, I appreciate the fact that the design is in there, and I will work with the Chairman on trying to make sure this goes forward. Thank you.

Thank you, Mr. Chairman.

Mr. Kolbe. Thank you, Mr. Hoyer.

Mr. Goode, do you have other questions?

PRESIDENTIAL TRANSITION

One 30-second question on transition. You have requested \$7.1 million for Presidential transition. And \$6.1 of that is what is required and comes under the way it is calculated under the law, Public Law 100-398. But you have got an additional million dollars there based on a bill that passed the House, H.R. 3137, on a voice vote. But it is still languishing over in the Senate. Isn't that a little unusual to request funds based on a bill that has passed one house?

Mr. Barram. Yes, but if the legislation passes, we are going to need the money to implement it for the upcoming Presidential Transition.

Mr. Kolbe. Okay.

Mr. Barram. And this, you know, this is----

Mr. Kolbe. I just wanted to find out why----

Mr. Barram [continuing]. All the transitions have done so.

Mr. Kolbe. All right, thank you.

We are going to conclude this part of the hearing and I think we are going to go to the judges, but I need to consult with Mr. Hoyer and Ms. Roybal-Allard for a moment.

So, we will conclude this part of the hearing and if everybody else will stand by for just a moment here.

[Recess.]

[Questions submitted for the record and selected budget justification materials follow:]

Tuesday, March 28, 2000.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

WITNESSES

JOHN W. CARLIN, ARCHIVIST OF THE UNITED STATES

LEWIS J. BELLARDO, DEPUTY ARCHIVIST OF THE UNITED STATES AND CHIEF OF STAFF

ADRIENNE C. THOMAS, ASSISTANT ARCHIVIST FOR ADMINISTRATIVE SERVICES

INTRODUCTION

Mr. Kolbe. The subcommittee will come to order. Governor, our ranking Member, Mr. Hoyer, has indicated he will be late but told us to go ahead and start and I am sure he will be here to ask some questions a little bit later. We are very pleased to, Governor, welcome you once again before this subcommittee. We look forward to hearing your testimony. Mr. Hoyer is right on time. We got word you were going to be late and we could go ahead and start.

Mr. Hoyer. I am late. Governor, I apologize.

Mr. Carlin. No problem.

Mr. Kolbe. Now I will begin again here. We are very pleased to have you here today, Governor, to testify about the budget request for the National Archives and Records Administration

for the year 2001. This makes how many years that you have been before this subcommittee on your budget now?

Mr. Carlin. I guess this would be my fifth.

Mr. Kolbe. I think that is right. Governor, although the Archives doesn't find itself very often in the limelight as many of the other agencies that come under the jurisdiction of this subcommittee, it is certainly very important. It is an agency whose mission and programs have tremendous impact on citizens all over this country, even if they sometimes are not aware of the impacts that it has. I think you have done an exemplary job of guiding the Archives into the 21st century in helping government manage its records and its archival responsibilities.

For fiscal year 2001, you are requesting a budget of \$303 million. That is an increase of more than \$80 million above fiscal year 2000 enacted level. However, the largest part of this increase, almost \$71 million, is for the renovation of the Archives building that is down on the Mall. This major renovation has been planned for several years. We discussed aspects of the renovation at last year's hearing and after your statement this year, I will have a few questions to clarify some of the funding details and plans for fiscal year 2001.

I also want to hear something about your continuing efforts to improve veterans' access to their service records. Your operations in St. Louis have to be responsive to requests for personnel information from veterans. We have supported your proposals in past budget requests to make this happen in a more timely fashion. And I note that the budget request this year includes another amount for this effort.

We are also of course going to go through a transition to a new presidential administration during this fiscal year and your request includes a total of \$5,923,000 which would permit the Archives to move and begin managing the records of the Clinton administration. The transition presents a different kind of a challenge for the Archives, certainly different I think than any other transition that we have had before because of the amount of electronic information that has to be archived and stored and processed. It is very important that we make sure that this transition is smooth and done efficiently.

I also want to make note of the progress that the Archives has had in tackling the issue of electronic records and management. You highlight some of that in your formal statement here today. I think that sounds very promising. I do have a few questions concerning your plans for future progress in fiscal year 2001 and beyond that. So once more, Governor Carlin, I appreciate your presence here and the leadership you have given to this department or this agency, your responsiveness to questions and concerns of the committee.

Let me ask my friend and distinguished ranking member if he would have a few comments before we take your testimony and then questions. Mr. Hoyer.

Mr. Hoyer. Thank you very much, Mr. Chairman. I join you in welcoming Governor Carlin and other members and leadership of the Archives to our hearing. I am always pleased to work with you in the important work you do in preserving our history and our records, and of course very pleased to have you as a neighbor in College Park. College Park is extraordinarily proud

of having an institution of your quality, world leader in archival activities in our presence.

Let me address two of the challenges that the chairman has mentioned and you have mentioned in your statement. Obviously preserving electronic records and making them accessible is a real challenge and it is a new kind of thing for us. All Federal agencies I think are struggling to keep pace with the rapid advancement of technology and we need to do everything we can to keep them up on the advances so that they can do the best job possible and assist you in your ultimate job of preserving and maintaining those records.

I understand that you are now closer to utilizing technology that will make electronic record archives a reality. I am sure we will hear about this.

The other challenge you have is the physical renovation of the Archives' main building. Built in 1932, home of our most historic documents and a shrine in many respects to two of the greatest documents ever written by a man, both articulate why we are forming a government and then the instrument of government itself, the Constitution, and the Bill of Rights is a part of that Constitution.

Now, you have requested a very substantial increase for full renovation construction for fiscal year 2001. I think this is important to do and do as quickly as possible and certainly I will be working with the chairman and with you and your people to effect that end. Hopefully, we will have sufficient dollars available to this subcommittee to accomplish the objectives that the administration and you want to accomplish.

So with that, Mr. Chairman, I look forward to Governor Carlin's statement.

Mr. Kolbe. Thank you very much, Mr. Hoyer. Governor, as always, your full statement will be placed in the record. If you would like to summarize or make some comments, tell us some of the highlights and then we will go directly to questions. Governor Carlin, the floor is yours.

SUMMARY STATEMENT OF MR. CARLIN

Mr. Carlin. Mr. Chairman, Congressman Hoyer, subcommittee staff, before anything else, I want to certainly thank you for the strong bipartisan support you gave NARA on appropriations last year and as well for the time you recently took out of your demanding schedules to meet with me personally about our budget request this year. We very much appreciate the time and attention you give, both of you. And I would also like to introduce Deputy Archivist Lewis Bellardo and Assistant Archivist Adrienne Thomas, who join me at the table to assist in some of the questions that you might have.

Today in addition to highlighting our 2001 budget request, I have news to announce, news of potential importance to the entire Federal Government and to everyone else in our country who really consider records and depends upon those records.

On previous occasions, I have identified the problems of preserving and providing access to vast quantities of system-dependent electronic records, in multiplying formats, as a great challenge for NARA in the 21st century. Today I can tell you that we are on the verge of a major technological

breakthrough for the long-term preservation of the born-digital records of the Federal Government. By that I mean records created electronically using computer technology.

Research and development work done for us by the San Diego Supercomputer Center indicates that a practical electronic records archives may be in sight, and I have just approved an interagency agreement with the National Science Foundation for work on such an electronic records archives to be carried forward within the National Partnership for Advanced Computational Infrastructure, which was created by NSF to take advantage of newly emerging opportunities in high performance computing and communications.

The electronic records archives that we now believe possible will not come overnight or inexpensively, but it is of the utmost importance in the era of electronic information. In simplest terms, it will be able to preserve any kind of electronic record, free it from the format in which it was created, retain it indefinitely, and enable requesters to read it on computer systems now in use and coming in the future. And because the system promises to be scalable, it could be useful as well for smaller archives than ours, including those of State and local governments and private institutions. Modest additional funds needed to carry this work forward are in our budget request for fiscal year 2001.

The budget request also contains funds for extending our work with Federal agencies to improve the management throughout the Federal Government of records of all media. This includes our targeted assistance program through which we work in partnership with agencies to help them meet critical records management needs. Already we have won praise for targeted assistance from agencies here as well as field offices across the country, and now we need your help to complete the coverage nationwide.

Additionally, the budget we request will enable us to take steps to improve our services to the nation's veterans and their families. As you know, they depend on military service records to document entitlements to benefits. And we are combining new technology, redesigned work flow, and staff retraining to meet veterans' requests more rapidly, reduce current backlogs of customer requests, and increase customer satisfaction by responding not only fast but with the right records.

For fiscal year 2001 we request the third and final funding increase in the sequence I outlined last year for implementation of this reinvention project. On the chart that we are showing, we have our projection that the project will pay off in backlog reduction at an accelerating rate between now and the fall of 2002 when turnaround time will fall below 10 days on average.

As you can see, although the numbers are too small, it begins slowly but the acceleration takes place during fiscal year 2001 which begins in October. That will be the significant improvement in the process and the service that we need to provide veterans.

Among the initiatives through which we provide public access to records, our budget contains funds for another that will be inescapable in fiscal year 2001. We request funds for temporary records storage in Little Rock, Arkansas, the

designated site for the Clinton library, for moving Clinton administration records there and for beginning their processing following the practice we established for records at the Bush and Reagan administrations. Because we are legally required to preserve and provide access to records of the Presidents, funds must be added to cover the costs or come out of our base budget at the expense of other valuable programs.

As you gentlemen both have already noted, our largest increase requested in our fiscal year 2001 budget, in fact the one that accounts entirely for the overall increase we are requesting, is for the renovation of the original National Archives building here in Washington. This is something we can put off only by risking the safety of our records, our staff, and our visitors. And I have a photograph that illustrates a hazard now existing in the 65-year-old structure. This photo shows a shaft behind walls that runs from the subbasement to the roof creating obviously a very serious fire safety problem because of the speed with which fire could spread throughout the building.

I also have a photo that shows an exhibit case mockup used to help determine the best angle and height to display the Charters of Freedom. From our tests, a different height and angle from those shown, this was an original prototype developed. We have chosen a 25 degree angle with the front edge of the case 30 inches tall.

And then a final chart showing proportions of the funds to go to each of the renovation areas: Fire and life safety 31 percent, almost a third of the entire appropriation will go for fire and life safety. ADA compliance, 20 percent. Just those two over 50 percent of the funds. Mechanical systems, 16.8; electrical systems, 16 percent; Charters security, 10 percent; and architectural modifications, 5.4 percent.

Funding that you previously provided for design and preconstruction engineering work will enable us to be ready to begin full renovation in fiscal year 2001. The renovation funds we now request will enable us to eliminate major fire and life safety deficiencies, restore all mechanical and electrical systems to full operation and compliance with current building codes, and bring public portions of the building, including the rotunda and all exhibit areas, into full compliance with the accessibility standards under the Americans with Disabilities Act.

Nearly a million people a year come to this magnificent building to visit the Charters of Freedom, participate in our programs, and do research. We want to make it safe and accommodating for millions more.

Those are the highlights of our budget request, but behind the facts and figures are living people with real needs whom our programs serve. Among them is a person who recently wrote me about the success of our staff in locating, after elaborate detective work in three of our facilities, the proof of citizenship needed by her 91-year-old grandmother to qualify for Medicaid. And she wrote, ``the National Archives is truly a national treasure and an invaluable resource for millions of Americans''. With the continued support of this committee, that is what NARA will continue to be.

Thank you, and I welcome the opportunity to answer any of

your questions.

[The statement of John W. Carlin follows:]

RENOVATION OF ARCHIVES I

Mr. Kolbe. Thank you very much, Governor. I don't have very much to ask but let me just ask in a couple of areas here, and I will turn to Mr. Hoyer if I don't get these done the first go around here. But let me just ask a couple of questions about the renovations since that is clearly a big piece of this budget this year and certainly of the additional money.

Your budget request, it has a total of \$88 million. That is \$71 million above the enacted level for renovating the main building of the Archives down on the Mall. We have of course supported and approved your planning and design efforts and have provided some of the funds for that and we certainly understand the need for renovation, including preserving and a better way of showing the Charters of Freedom. Nonetheless, I think you would agree it is a sizable sum of money and one which we have to figure out how to get that, swallow that all here. So I have a few questions in this area.

Can you give us a rough idea of the schedule for this and the timing for the major milestones in this renovation?

Mr. Carlin. Well, with the previous appropriations, obviously we have been working on design as well as we have now started what we would call preconstruction work, actual work in the facility so that when we--if the money is available to go to contract, we will be prepared to do so. The planning work, the design work, the architectural work, will be done late this calendar year so that we can prepare to go to bid for actual renovation with the appropriated funds we are requesting by the spring of next year with actual work beginning in the summer of 2001. We would plan to close the public side on Constitution Avenue the 5th of July of 2001, and then for a period of 2 years devote the energy to completing the public side and hope to open in the summer of 2003 with the full completion of the renovation in 2004. During this time frame, we will keep the research side open so that genealogists and researchers can use our very valuable records that are housed at the main building and that research can continue. It will just be the free flowing public access to the rotunda area and exhibits that will be closed for that 2-year period.

Mr. Kolbe. Though, of course, that is significant to have the public access area closed for that length of time but I understand the need for that. Given that this is going to take us, I think you said roughly 3 years to complete, is it possible to phase the appropriations over several years rather than having to put it all up front and what kind of problems would that pose if that were done? What are the downsides from phasing this funding?

Mr. Carlin. The principal downside of phasing the funding is it would end up costing much more. It is possible but the reason why it is extremely difficult to do so is the way the building was constructed back in the 30s. Most buildings on the Mall of comparable size were structured in such a way that

sections could be dealt with separately but because the original design included an open courtyard that even before the construction was completed was recognized as not going to fit the needs when they realized how many records were going to be moved in. They immediately filled the courtyard in and when they did so they really built the building in one unit, so when you work on the air conditioning, it is not sectioned off in the Northwest quadrant and therefore able to deal with that quadrant in fiscal year 2001 and then move on to the next quadrant in 2002.

So it would be possible but incredibly expensive and obviously would keep us from opening as quickly as you have appropriately acknowledged to the public. We would stretch beyond the 2 years simply because of the way the building was designed and ultimately built. That is the principal reason. It would just be very difficult----

Mr. Kolbe. When you say a lot more, do you have any estimate of how much if we tried to do this in 3 years, 3 years of appropriations in one-thirds?

Mr. Carlin. Obviously when we go to contract, we can only go to contract for the amount of money we have. We would have to move much more of the records out of the building. We figure at least half of the records would have to be moved out. That is not done without time consumption as well as cost. We would have to move more of the staff out of the building. There would be less ability for us to keep research going on an ongoing basis. But because all of the plans to this point have been based on letting one contract, I cannot give you an exact figure.

The other thing that also makes this difficult is from the very beginning you will recall at one time we had studies that called for a \$300,000,000 estimate. That has obviously been scaled back considerably but one of the ways it has been scaled back is to fence off stand-alone projects. With earlier R&R money, we started the renovation of several of the elevators. That is actually taking place now. But it was one element of the project that was stand-alone and not impacted by mechanical-electrical that went across the entire building. The other stand-alone that we are reserving for later, none of this will go for--we need a new roof. We will do that in a later year with our base appropriation for restoration and rehabilitation of our buildings. Oh, yes, and the outside of the building will be dealt with. Obviously that can be separated.

So, unfortunately, the part that could be separated has been from an efficiency point of view and a cost point of view, and we are now left with a situation where it would be much more costly, and obviously if you so desire we will provide information about extra cost to you. We will get an estimate from architects as to how that would spread.

[The information follows:]

Mr. Kolbe. It would be helpful if you do that. If we were to be able to do this all in one year and give you the appropriation at one time, do you anticipate coming back to us

with additional requests for funds in the outlying years for this effort?

Mr. Carlin. Based on what I know at this point, no. The part of the renovation that would not be covered by this, as I previously just stated, we plan on and we will have in the base R&R money, and we are committed and feel comfortable we will be successful to raise between \$20 and \$30 million to do projects, including the repair and restoration of the murals in the rotunda. That will be done with private money. That will be our number one project.

Secondly, we intend to improve the exhibit area with private money, and third, we intend to build a new theater underneath the Constitution Avenue steps that would greatly enhance the public use of the building in a variety of ways, including our government customers through the expanded training opportunities we would have with a better facility.

Mr. Kolbe. Last question, sir, and let me turn the time over to Mr. Hoyer. You had estimated the total cost of this effort would be \$94 million. The \$88 million you have requested for 2001 combined with the \$2 million in fiscal year 1999 and the \$8.5 million in fiscal year 2000 brings the total cost with the \$88 million to \$98.5 million as opposed to \$94 million. What is the reason for the increase of \$4\1/2\ million?

Mr. Carlin. The reason for the increase is tied to the picture that I showed about the fire and safety hazard that evolved as a result of the initial work done checking in--the planning, design part of the operation as well as preconstruction when they actually had to check in behind the walls to find out what was there. Much to their surprise, quite frankly, because it was not on any drawings, we found literally these shafts that run from the basement clear through all the tiers to the roof. You didn't have to be too experienced a fire prevention person to know that was serious. Plus we discovered that internally cork had been used in duct work which is a very flammable product which also increased the cost. We have two elements to deal with there that were not projected in the original design work.

Mr. Kolbe. Thank you very much. Mr. Hoyer.

RENOVATION IMPACT ON ARCHIVES I EMPLOYEES

Mr. Hoyer. Thank you, Mr. Chairman. Let me hone in on the employees in Archives I downtown. How will they be impacted as we move along on this project?

Mr. Carlin. They have already been impacted to the extent that a number of them have been temporarily moved to Archives II.

Mr. Hoyer. How many of them have been moved to Archives II?

Mr. Carlin. Approximately 20, I believe. And the bulk of those employees will come back following renovation. One of the methods we are using to be able to for the most part provide service and still go through the renovation is the development of what we call swing space, and that will be space for staff to be shifted. One of the construction--early construction projects will be the building of office space within the northwest and northeast mote areas that have been abandoned for all practical purposes. There is no functional use at this

point but will be used to build additional office space. We will be able to move staff into there, renovate staff space, and then do a musical chairs type shifting as we go through the entire renovation period. So in terms of your question, some staff have been moved. Some staff will be moved within the building twice, one in the swing space and one back into renovated space, and obviously staff will be impacted by the construction going on to some extent. That will not be able to be avoided.

Mr. Hoyer. You don't contemplate more than the 20 being transferred out?

Mr. Carlin. Correct. But they are likely spending a little more tax dollars in your district so you will have that benefit, Congressman, for a period of time.

PRIVATE DONOR FUNDING FOR ARCHIVES I RENOVATION

Mr. Hoyer. That is always good to know.

Let me ask you about the educational components. They are going to be privately funded and they are to be completed as I understand it--or let me ask the question. Are they to be completed in tandem with the completion of the renovation?

Mr. Carlin. They are to be completed in tandem with the renovation of the public part, the rotunda, that we would have completed in the summer of 2003.

Mr. Hoyer. What is our target for private funds?

Mr. Carlin. The total is between \$20 and \$30 million. Twenty would certainly do the basic components of taking care of the murals which we now estimate to be approximately \$4 million. The permanent exhibit and improved educational components would take a sizable sum and the estimate for the theater is approximately \$7 million.

Mr. Hoyer. Now, are we planning any kind of recognition of the donors publicly in the Archives?

Mr. Carlin. Yes, appropriately done consistent with other practices and accepted on the Mall by other agencies. Yes, we will appropriately recognize those donors obviously differentiating between those who help us with a modest gift versus those who make a real difference and the potential for naming opportunities as well as recognition on some type of wall of honor will be appropriately carried out.

RECOGNITION OF PRIVATE DONORS FOR ARCHIVES I RENOVATION

Mr. Hoyer. Let me ask you about the naming opportunities. This obviously is a big fundraising--tactic is the wrong word but consideration, if you will, for large donors. Stadiums are being named, buildings that universities name. I am concerned--I happen to serve on the House Administration Committee--with the Library of Congress, with the Visitors Center, we are talking about large donors and how they will be recognized. This is after all a building for the centuries, not just for a short period of time. What is your thought on that? Are we going to have rooms named for corporations or individuals?

Mr. Carlin. I used the word appropriate earlier and I would raise it again because I think that is the key word, appropriate recognition. And when it comes to the charters and

the rotunda, I can assure you there is not going to be the XYZ corporation rotunda. We will use an appropriate plaque, an appropriate bronze wall of honor type to recognize those who contributed to that. We will have opportunities that I think are appropriate in some of the potential classroom space where students--and we have literally hundreds of thousands of students that come through the building, and we want to expand that opportunity in a more meaningful way. I think there will be appropriate opportunities to name rooms that will not be inconsistent with the concern you have shared.

Mr. Kolbe. Would the gentleman yield.

Mr. Hoyer. Sure.

Mr. Kolbe. If we are successful in convincing our colleagues to appropriate this \$88 million, it seems logical to me that this should be known as the Hoyer/Kolbe Archives Building, don't you think?

Mr. Hoyer. Or more appropriately I'm sure the Kolbe-Hoyer.

Mr. Kolbe [continuing]. Governor Carlin should get his name onto that, too, for his efforts. Thank you.

Mr. Hoyer. I am a great one to talk with respect to Archives naming things, I suppose. I don't know whether you have been out to Archives II.

Mr. Kolbe. We had it scheduled one time and it got canceled.

ELECTRONIC RECORDS PRESERVATION

Mr. Hoyer. You should to do that. Let me go to electronics preservation. Would you elaborate a little further what this means in terms of our efforts; in other words, the new technologies preservation purposes? You indicated there are ways to do it and retain it electronically so it can be retrieved electronically but can you elaborate on that a little bit?

Mr. Carlin. I would be happy to. I would share with you that at a comparable hearing 2 years ago, at the close of that hearing, Mr. Hoyer, you, after I had presented some statistics that were sort of scary, wondered if it was possible for us to resolve this and would we have the resources. I said at that time that technology had got us into this and it would have to be technology that would get us out of it. In fact, that is what is happening. Developments, new theoretical and early applied research just in the last 18 months supported by the National Science Foundation, has allowed us to be able to say what we are saying today. As we have worked with the folks in San Diego and other partners to take what was considered not too long ago an impossible situation and actually have demonstrated already an early prototype in the early applied research part of this project. We are able to, as they use the word, ingest literally millions of records of a variety of formats in a very short period of time and be able to make sense of them from an access point of view. And so we are very excited about what this could mean for all across the entire world literally.

Obviously, we have moved in some ways more substantively to electronic records than much of the world but it is all coming very fast and it is an issue that the private sector is heavily concerned about.

One of our partners on some of the research that we are involved with is the pharmaceutical industry because of their need for long-term retention of records. The Patent and Trade Office was one of the first Federal agencies that joined with us to work on this, as well.

So the significance I don't think can be overstated and I would also underline, as I did in my statement, the completion of this is not going to be overnight, but we now I think can talk about a realistic timetable where early developments will be significant in the next couple of years and full implementation probably in 4 to 5 years. It will not be done without considerable investment but it is an effort that is being done on behalf of the entire Federal Government plus all the others who will benefit from the development of the technology because the government is very much in need of the capability of maintaining records.

Technology changes so fast now that we are not just talking about history. We are talking about accountability. We are talking about your capacity as a Congress to be able to ask an agency about records that were created 10 years ago but maybe three generations of technology ago and be able to efficiently call up those records and be able to access them.

There are a lot of individual rights and entitlement records that are not preserved in a permanent way but are critical to individuals in terms of being protected, and so this is not an issue just as in the traditional sense for an archives to accession records but literally for the operation of the Federal Government and all other governments and private elements that will benefit from the development of this technology.

Mr. Hoyer. Thank you. Mr. Chairman, I think my time is up and I will yield to Mr. Price. Governor, I am going to go over to the Labor-Health Committee, Corporation for Public Broadcasting, but I will be back.

Mr. Kolbe. Mr. Price.

ELECTRONIC RECORDS ARCHIVES

Mr. Price. Thank you. Welcome, Governor, and your associates as well to the subcommittee. Let me just pick up on Mr. Hoyer's line of questioning briefly. We have had this partnership going with DARPA and with the Patent and Trademark Office and with UC-San Diego. You also indicate, though, that full development of this Electronics Records Archives has relied on technologies not yet fully developed. Can you fill that in a bit and tell us what the implications are, first of all for the rather small funding increase you are requesting this year and also the kind of time frame that you anticipate meeting?

Mr. Carlin. When I say--when we talk about fully implemented or operational in terms of actual use here, yes, we are several years down the road. But the prototypes, the early prototypes and the early applied part of the research have worked so well that we are beyond just a theoretical concept that sounds good theoretically but no one knows whether it will work. We have demonstrated that it will work.

Now, obviously there is a lot of refinement that will need

to take place and the reason that our request for this year in terms of what we would need in 2001 is so minimal--there is really two reasons--one, you have provided support in this area for two fiscal years and that is part of our base. Secondly, we will still be in 2001 in the research part of this. It will be applied research primarily, but it will still be research where we will be heavily dependent upon the resources of our partners committed to this project. And it will be 2002 and beyond where we will start to talk about implementation where it will come back to us for actual development of the implementation of the project where we will need sizable resources at that time.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

Mr. Price. Thank you. Let me shift to the National Historical Publications and Records account. As you know, I have had a strong interest in that program, and I am pleased we have been able in tight budget times to maintain funding at the \$6 million level for several years now. Chairman Kolbe and this subcommittee have been instrumental in increasing this appropriation, and I am grateful for the ongoing support. This year you have once again requested \$6 million for the program, which of course is a slight reduction in real terms even when you disregard the additional \$250,000 earmark that was included in last year's bill.

I am interested to know how well this funding level is enabling you to meet demand for the program. I understand that the NHPRC staff work closely with potential grantrecipients to help them craft realistic applications, realistic in terms of the dollar request given the size of the program. So I am not certain exactly how to interpret the data you have about the acceptance rate, how completely that reflects demand. Do you have any sense of how well the \$6 million funding level is meeting demand and whether any additional increase might be warranted this year or in future years?

Mr. Carlin. Congressman, I think your question is an excellent one and one that the answer will evolve, the total answer will evolve over the next period of months and maybe a couple of years because there are a lot of questions being asked about this program from a positive constructive point of view as to what is the real need and therefore if that need is larger then should we not be more aggressive in pursuing a higher figure.

The \$6 million figure I think comes very close to providing the resources for the program as it now exists and as you know as well as anyone and certainly members of this committee are very much aware, there is a very complex process that applicants go through. The applications don't just storm into Washington. They go through an advisory group in each State.

In addition, as you pointed out, the staff works very closely with applicants to refine projects, to make sure that they are appropriate in terms of what is realistic. So it is logical that one can raise the question what is the real need. I think the real question that is going to come, though, that will evolve and direct us to a considerable extent in the future is all of the progress on electronic records and what that will--what need there will be across the country in State and local governments, for an example, to implement that

progress.

One of the things that is in the full testimony but I would want to underline is that a current NHPRC grant is supplementing support to the San Diego project to make sure what we are developing is scalable so that small archives, smaller units, as well as large can use this technology because the problem is not connected to the size of an institution but to the technology that everyone is using across the country.

But as we come to implementation and use of, it is conceivable that additional resources will be needed. I would also advise the committee that there are studies taking place at this time directed right at the question you asked. What is the real need in communicating with State archivists and people across the country who have benefited by this program. I was actually cautioned to not seek additional funds at this time but to allow them to better analyze where we really are so that--rather than sort of nickel and dime it up, if there was a justified significant increase, it could be presented after a full study had taken place.

Mr. Price. So that is in motion, that kind of an analysis?

Mr. Carlin. Yes.

Mr. Price. So we should expect to see that reflected in subsequent----

Mr. Carlin. Depending on the results, yes. It was anticipated it would be done in May or June of this calendar year. NAGARA, the National Association of Government Records Administrators, which is an organization that State archivists, for example, play a significant role in and with some partners I believe are doing this study.

Mr. Price. Thank you.

Thank you, Mr. Chairman.

VETERANS' RECORDS IN ST. LOUIS

Mr. Kolbe. Thank you very much, Mr. Price. Governor Carlin, let me just ask you a question or two about the veterans records. You had a chart up there which you showed us. It might actually be helpful if we had it back up there. You testified last year that you get about a million and a half requests for records of veterans and we of course provided a good deal of funds for the improvements of the military records system in St. Louis and you have got additional money in the 2001 budget for going ahead with this for preserving and accessing these veterans records. We recently approved a request of \$369,000 of unobligated balances to support the ongoing work of this.

Does this chart suggest that by the end of fiscal year 2001 the work will be complete by that time, which is when you show that tremendous improvement in the access time?

[The information follows:]

Mr. Carlin. At the beginning of 2002. Throughout 2001----

Mr. Kolbe. 2001-2002 fiscal year or calendar year?

Mr. Carlin. Fiscal year. The chart begins--and what we should do is provide the chairman with a copy if you don't have them up there so you can see a little easier. We expect the

decline to start this summer and start to accelerate in October and so the 12 months of the 2001 fiscal year will be the dramatic improvement.

Mr. Kolbe. So it really does look like it is by the beginning of the fiscal year 2002.

Mr. Carlin. Yes. The improvement during 2002 is fine tuning and making full use of technology.

Mr. Kolbe. What are the--and then at the end of 2002 fiscal year essentially this would be completed, this project?

Mr. Carlin. Yes.

Mr. Kolbe. What the improvements we are going to see made during this fiscal year 2001 with the money which we would give you?

Mr. Carlin. What we are talking about there is first of all incorporating technology which is expensive in terms of the technology itself but also in terms of the training. We are talking about taking a staff that historically had followed a very manual, paper oriented, outdated set of processes to provide service, but that was a skill level they were at and to take them as well as we are hiring at a different level for vacancies that come up. Replacement candidates, the skill levels we are working on, the grade level we are bringing people on is higher. But all of this takes a great deal of training, a great deal of change management, something that we have learned a lot about in the last year.

Change in any entity, public or private, is not easy to get people to do things differently, to get a culture to change, and it has been a real eye opener for us in terms of the magnitude of that challenge, the difficulty. But we have quickly learned some lessons, adjusted in the sense of what training we were using, ratcheted up the quality of the training, the concentration, the follow through to that training in order to make change management a reality.

But that is where the focus of the resources are going. It is technology and training and allowing us to implement the new--well, the development of new processes as well with contract dollars in terms of how we are going to not just bring technology in but how we are getting to use that technology to more efficiently and, most importantly, more effectively provide the service that the veterans deserve.

Mr. Kolbe. Thank you. I can say on behalf of every congressional office case worker we look forward to seeing this actually happen.

Mr. Carlin. And your joy will be closely followed by our joy in having a lesser burden on our staff in trying to explain to your staff as well as yourselves what is going on or not going on.

I would say as a follow-up to your original question on this what we outlined last year is consistent with what we are asking for this year and the timetable as well is consistent.

ELECTRONIC RECORDS MANAGEMENT

Mr. Kolbe. Let me turn to the electronic records management, which is very exciting. Your statement goes into great detail. We had questions from both Mr. Hoyer and Mr. Price on it so we have been over this a bit but I just wanted

to kind of follow through.

I think as you have said, this is a problem of technology and it is only going to be solved with technology. I think that is a very good way to think about it and look at it. And you have talked about the tremendous breakthroughs which we are seeing as a result of the work with the San Diego supercomputing center. In layman's language, can you describe for me just what it is you have learned as a result of this trial demonstration with the San Diego computer center--supercomputer center--that is so promising?

Mr. Carlin. What we have learned and what we now believe is very practical and will be implemented is we can now take a variety of formats of electronic records, e-mails, databases, et cetera, there are a number of different formats, bring them into a system, accept them, take them in, accession them into our facility, and that could be a records center down the road for short term possibilities as well as ultimately into the Archives, that we could--what they are using is a wrapper term, literally wrap those records, sort of encase them in a time capsule the length of which would be determined by the access request that might be coming down the road and whether that be 5 years, 50, or 500 years later. This technology would allow us to at that point in time, whenever that is, to come back into this wrapped, encased set of records and access, unwrap for the moment what is wanted and desired and allow that to be presented in a readable format regardless of the generation of technology we are talking about at that particular time.

Mr. Kolbe. Good description of it. Do you have any idea when this technology could be far enough along that you could actually make practical use of it or when you might come to us with requests for funding for this? When could we actually see the Archives make use of this?

Mr. Carlin. We believe the earliest implementation will be in 2002 for a segment of the project that would allow us to significantly improve our ability to take in already created electronic records and provide access to them. It would be a component of. Another term they use, and my deputy might assist me here, is a snap-in where literally a somewhat stand-alone effort can be developed, which is what we would start on in 2002, and then it can be plugged into, as I would describe it as a layman, a mainframe. Lou?

Mr. Bellardo. We are working, this year we are building a prototype for the reference component just to deal with structured data like databases which are the easiest to work with. We will be building a series of other prototypes during 2001. In 2002, we will be working with the State Department cables which will be a very large accession. In 2003 we will be working with the military to begin servicing electronic Official Military Personnel Files, OMPFs. By the end of 2004 into 2005 the plan is to have a fully operational system and each of these snap-ins. Basically--the theory behind all of this is that you use the very obsolescence of technology to work for you because you use certain sets of products off the shelf but modified to do what you need to do to basically quickly analyze each individual record and groups of records, strip out what is needed in terms of understanding how that record is structured, and what is needed to play it back and

then that becomes the envelope.

Well, as technology moves forward, you will be creating different kinds of records. You use another tool that again is based on off the shelf products as they come along and so on and so forth. But as John was saying, we will be needing to-- because of the State Department challenge, we will be needing at least to have this reference component in place for these cables by 2002.

Mr. Kolbe. Governor, you said that this could cost as much as \$130 million to develop this but you have also suggested that it has a lot of applications elsewhere in government. Do you anticipate that this development cost could have other partners involved in this? Are you going to be bearing the cost of this alone? Do we expect to see this in your budget entirely?

Mr. Carlin. First of all, Mr. Chairman, I would want to emphasize, as my staff has cautioned me, that the figure 130 was developed to give people a sense of we are not talking about a few hundred dollars. We are not talking about a Y2K multibillion dollar issue.

Mr. Kolbe. I accept that but the question still is----

Mr. Carlin. I understand but I wanted to make sure on the record that the \$130 million didn't go across the air waves as the----

Mr. Kolbe. And you are locked into that in future years. I understand that.

Mr. Carlin. We would anticipate the number that we would be bringing to you for 2002 would be considerably less than the 130 but would be significantly more than the relatively modest set of numbers we have been dealing with for the basic research that is in our base that you have provided us with that come to a total of approximately 2 million for initial research.

The heart of your question, though, I would answer this way. What we are looking at in terms of numbers and what we will refine for you will be the numbers we need to develop the kind of infrastructure that would allow us to carry forward what the law requires us to do. Now, we will not be building our own infrastructure. There will not be another Hoyer named monument in College Park, and I say that with obvious great respect. What will be needed will be significant development resources capital to make use of existing major mainframes that could be spread out across the country.

One of the things that has already become very clear is that when you move into this kind of development, one of the concerns is what if somebody presses a delete button, we would not--we would have backup to backup to backups and in different locations but investing in existing mainframes. We would not start from scratch.

Mr. Bellardo. Along those lines in terms of partners, one of the blessings of this whole approach is that the National Science Foundation and DARPA and others have poured and are continuing to pour large sums of money into keeping this supercomputing network, the infrastructure of it state of the art, and so that is where the real leverage is for us.

Mr. Kolbe. I don't have other questions. Mr. Price, do you have any that you would like to ask? Mr. Hoyer will submit his questions for the record then, and we thank you very much for

your presentation today, and again let me congratulate you, Governor Carlin, on the outstanding job you and your staff is doing down there. We are very proud of the work that the Archives is doing, and we thank you very much for being here.

The subcommittee will stand adjourned.

Wednesday, March 29, 2000.

JUDICIAL CONFERENCE OF THE UNITED STATES

WITNESSES

JANE R. ROTH, JUDGE, U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT
TERRY J. HATTER, CHIEF UNITED STATES DISTRICT JUDGE, CENTRAL DISTRICT
OF CALIFORNIA

HARRY T. EDWARDS, CHIEF JUDGE, DISTRICT OF COLUMBIA CIRCUIT
EDWARD B. DAVIS, CHIEF JUDGE, UNITED STATES DISTRICT COURT, SOUTHERN
DISTRICT OF FLORIDA

JUDICIARY TESTIMONY

Mr. Kolbe. The hearing will come back to order.

We have a very severe time problem here. And we have a debate on the rule right now on the supplemental appropriation and we are being urged to adjourn our meetings. I am going to try to get through this because we have people here who have come a long ways. I am going to forgo any opening statement. Mr. Hoyer, I understand you will forgo any opening statement?

Mr. Hoyer. That is correct.

Mr. Kolbe. If you would make yours very brief, we can get to the questions, I think, that members need to get to.

Judge, we will put your entire statement in the record, the floor is yours for a statement.

SUMMARY STATEMENT

Judge Roth. Thank you, Mr. Chairman.

My name is Jane Roth and I am a judge on the Third Circuit Court of Appeals. I appreciate having the opportunity to be here today. I can say in a nutshell why we are here and what we think is most important. We believe that for our prioritization of courtroom projects to succeed we must proceed in an orderly fashion to build the courthouses as they come onto the priority list. We have an amount of \$800 million on the list this year and we hope that all of these projects can be dealt with despite the fact that the President cut the list down to 7 projects at a level of \$488 million.

All these projects have been reviewed for need and there has been some question from OMB whether the necessary information has been provided. This pile on the table is the Richmond courthouse. It is the information that is worked out with us and with GSA on a courthouse project to determine what is needed, and why is it needed, what are the statistics behind the need for the courthouse.

This is a very careful procedure that we go through and we

believe that if there is not an orderly consideration of the needed projects from year-to-year the whole process is going to fall apart. We think that we have kept costs down by prioritization and we think we have kept costs down by the Design Guide. We hope we can continue in that fashion.

We feel in order to do so that the full proposed list of projects, as presented by GSA to OMB, should be included this year. By statute, the circuits determine the need for courthouses in cooperation with the Administrative Office and General Services Administration.

Once that need has been studied and set forth in the most economical way, including considering what needs to be built, the scope of what needs to be built, whether there can be an annex, or whether a new building is needed, GSA is then directed by statute to provide the accommodations which the courts have determined are needed.

The courts and General Services Administration, in cooperation, with the careful work they do, determined that \$780 million on the list, which I have provided attached to my statement, is needed this year. This conforms with our courtroom sharing policy, which has been determined by the Judicial Conference of the United States, that every active district judge should have a courtroom.

GAO, in the study, which OMB says is the basis for their position on courtroom sharing, came to no conclusion. They said that the courts should do a study. We contracted with an independent contractor, Ernst & Young, and we have done that study. The study is almost completed. We have discussed courtroom sharing with the Ernst & Young people and they have informed us that they are going to recommend that every active judge have a courtroom.

I am a former district judge. I know the need for a courtroom. From my personal experience I can assure you that a judge needs a courtroom for the orderly management of judicial business. For that reason and for the reasons I state in my statement, I urge you that the full list of projects be completed.

Judge Hatter, Judge Davis, and Judge Edwards have all submitted statements and all of us will be very happy to answer any questions that you may have.

[The information follows:]

LOS ANGELES COURTHOUSE

Mr. Kolbe. All the statements will be placed in the record. I will defer my questions for later, because I know there are a couple of members here who have their own judges here.

Mr. Hoyer.

Mr. Hoyer. I will yield, Mr. Chairman.

Mr. Kolbe. Then Ms. Roybal-Allard.

Ms. Roybal-Allard. Thank you, Mr. Chairman.

I would like to welcome Judge Hatter, who is the Chief U.S. District Judge of the Central District of California. Judge Hatter is intimately aware of the serious crisis that we are facing in Los Angeles. I would like to thank him particularly

for being here today since he was here last week also, on Thursday, testifying before one of the Subcommittees on Transportation on this very issue.

Judge, in your written testimony you state that building a companion facility to the existing Roybal Building is simply not feasible. And that GSA and the courts have already studied that option and have rejected it. You also state in your testimony that security and efficiency could be compromised by such a companion facility.

Could you please elaborate on that statement?

Judge Hatter. Thank you, Congresswoman.

Thank you, Mr. Chairman, Mr. Hoyer and all members of the Subcommittee for this opportunity to respond.

Clearly, there is an impossibility with regard to a companion building. I have here with me a copy of ``The Los Angeles Times,' ' Tuesday, March 14, 2000, from over two weeks ago, indicating that the Federal Government is interested in acquiring a building site in downtown Los Angeles, California. An advertisement was placed in the paper.

As of today, I am informed by the Regional Office of GSA in San Francisco that not a single inquiry has been made regarding this. That is simply because in the partnership which we have had with GSA over the years--and it has been a good partnership--we have studied this to death. We have had over 6 studies. We have used the taxpayer's monies for over a million dollars for those studies. We have looked at over 12 alternatives. There is no way that we could have a companion building with Roybal and Roybal is three blocks away from our main courthouse. We lose jurors, we lose exhibits, we have all kinds of safety problems as you have pointed out.

The only way that we can actually function--and we have been trying now for over 20 years to finally get an adequate courthouse for the second largest metropolitan area in the nation--would be to have a stand-alone building. That was the result of all of the studies.

That is why I say that in essence OMB is not being truthful with the Congress. Frankly, there is nothing in the statutes that I know of that says that OMB has any right to dictate to the third co-equal branch of Government what ought to be the way of meeting their needs.

I am sure Judge Davis is going to speak to that, 28 U.S.C., Section 462, which dictates that. Indeed, the Director of the Administrative Office of the U.S. Courts will submit requests through GSA and those requests have to be answered as Judge Roth has pointed out.

That has been done now over the years. We are number one on the priority list but we might as well not be on the list because what OMB would do would give us five courtrooms, fewer than we have now. And let me tell you, very frankly, we are already into the business of courtroom sharing. It is not unusual for me to have several juries going at the same time. So, I have to borrow a courtroom to have another jury in. I have had as many as three juries going at the same time.

For many years, I was the only Federal Judge in the country who regularly did night court. I would do juries from 9:30 to 5:30, take a half hour, and then do court trials from 6:00 to midnight. I almost lost my wife, I did lose a wonderful

reporter who couldn't do it and went into private practice. The Clerks Office had to give me a second clerk. It did not cut down on the business.

I would just say to you, all you members, that here you talk about and, indeed, you provide more monies for law enforcement and more monies for prisons, but let me tell you there is something in between law enforcement and the prisons. It is the courts.

Ms. Roybal-Allard. Is my time up?

Mr. Kolbe. You can ask another question.

Ms. Roybal-Allard. Okay. Thank you, Mr. Chairman.

Judge Hatter. I am so used to listening to the lawyers go on, I don't get a chance to talk. But thank you. [Laughter.]

Ms. Roybal-Allard. Judge Hatter----

Mr. Hoyer. My, my, my. [Laughter.]

We are all concerned about your not having control of how long the lawyers talk.

Judge Hatter. We understand that.

Ms. Roybal-Allard. That didn't come out of my time, did it? [Laughter.]

Mr. Hoyer. That came from a trial attorney who from time-to-time has been admonished by the presiding judge that he had heard enough and he thought the jury had heard enough. [Laughter.]

MULTI-DEFENDANT COURTROOM

Ms. Roybal-Allard. Judge Hatter, GSA's original recommendation for Los Angeles included a high-security, multi-defendant courtroom. OMB deleted this provision from GSA's request. Could you expand as to why the L.A. District Court needs this type of special courtroom?

Judge Hatter. We have more multi-defendant cases than any other district other than perhaps Miami. Just two weeks ago now, we had to reassign a 21-defendant case. We have all kinds of security problems when we have these multi-defendant cases. What we have to do now is take a courtroom that is already undersized, build tiers in it, and then have the lawyers, the defendants, the experts, and others, all in there, crowded into that sort of a situation which makes for real safety problems and then take it down after the trial is over. Sometimes these are trials that last for weeks and months. And then it costs the taxpayers almost \$50,000 each time that we have to assemble and then disassemble that sort of an operation.

So, clearly, here in the second largest metropolitan area in the nation, our district has over 18 million people. There are no other districts that are even a third the size of ours. We clearly need an all-purpose courtroom, a secured courtroom. It is not for ceremonies. It is for the purpose of trying these cases that these growing law enforcement agencies bring to us.

Ms. Roybal-Allard. And each time you have to modify a courtroom, I understand it is at a cost somewhere between \$50,000 to \$65,000?

Judge Hatter. That is correct. Each time, Congresswoman, yes.

Ms. Roybal-Allard. Thank you, Mr. Chairman.

MIAMI COURTHOUSE

Mr. Kolbe. Thank you.

I am feeling in such a generous mood this morning, I am going to let both of my distinguished colleagues from this side of the aisle go ahead of me here.

Mrs. Meek.

Mrs. Meek. Thank you very much, Mr. Chairman.

I want the Committee to know that Judge Edward Davis is my judge and I am very, very proud of Judge Davis. We have worked very persistently with OMB about the courthouses because I feel that the judicial branch certainly has Constitutional permission to do what you have done and you did your research very well. So, I have strongly advocated your position in terms of the courtrooms.

I understand from my experience in Miami that this is the busiest trial court in the Federal system, Judge Davis, and that you are very busy and the burden in the courtroom is extremely heavy and there are sensitive kinds of issues with which you are dealing there. The drug trade imports, that is a very sensitive thing with which you are dealing. And we are just in an area in Miami where it is important to have a strong judiciary and have one that is working very well. It is extremely important.

Now, your project budget has been cut by \$11 million because of this courtroom sharing initiative, which the Administration has proposed. Now, I am an old research person. Many years ago I learned your assumptions affect your conclusion. And you have different sets of assumptions. OMB has a different set of assumptions than the Federal Judiciary has. And, of course, I agree with the Federal Judiciary.

Please describe to the Subcommittee how this project reduction due to the proposed courtroom sharing will affect the administration of justice in South Florida?

Judge Davis. Well, thank you very much, Carrie, and thank you very much for letting me have an opportunity to speak here today on this.

I must say we were shocked on this. We have had inadequate space in our court since 1983, when we had our last courthouse built to take care of our 30-year needs at that time, and we were overfilled before we got into it.

We have had the heaviest caseload of criminal jury trials in the United States year after year after year. We had an agreement with GSA to build a 16-courtroom courthouse with 6 oversized courtrooms in 1992. Congress approved this project in 1996 for a site and design. We acquired the land. We have tried every year since 1992, more criminal jury trials than any court in the United States.

We continue to do that. Our level rises consistently over time. We cannot do our job unless we have courtrooms to try these cases. As Judge Hatter points out, we have trials going continuously, you finish your trial, your jury may be in deliberations for a week. I just left a judge that had finished an 8-week trial with 11 defendants. We brought in 25 Marshals from outside of the district to be sure that we had adequate security because our existing facilities don't give us appropriate security. We had to block off aisles and hallways

to allow shackled prisoners to come in before the jury arrived. While that jury was out, the judge had to try two other cases, small cases, but they needed jury rooms. So, you shift and share your jury rooms now.

We can't operate doing what OMB has suggested in this case. It makes no sense and we also believe that it will save literally no money. Our design is 90 percent complete today, according to our architect. The architect advised us that because of the building boom in Miami the amount of funds that GSA requested for the full project is understated by several million dollars. They believe with new design and a delay in the project that there will be no savings or very little saving at all could be achieved by this project.

I have been here when we have tried to share courtrooms because we did not have them. It did not work for us then, it will not work for us in the future. I ask you to support what we have requested and what GSA has requested and has been approved throughout the process.

Thank you.

Mrs. Meek. Thank you, Judge Davis.

Thank you, Mr. Chairman.

Mr. Kolbe. I will let you have one more question.

Mrs. Meek. Okay. Good.

Mr. Kolbe. It has got to be short. [Laughter.]

COST OF REDESIGN

Mrs. Meek. I just wanted to nail the point down, Mr. Chairman. The Judge just mentioned something that is very important. Changing the design of the courthouse, will be very traumatic because it is about half completed now.

Judge Davis. Design is 90 percent complete.

Mrs. Meek. Oh, 90 percent.

Judge Davis. We have just received yesterday the letter from the architect that indicated it was 90 percent complete. We are working on the budget now.

Mrs. Meek. Tell me if I am correct in this, is it true that the General Services Administration estimates the cost of a complete redesign to be approximately \$2.3 million.

Judge Davis. That is correct.

Mrs. Meek. And a one-year delay could result in additional costs of over \$4 million. And you are in the process of breaking ground in 2001?

Judge Davis. We would be----

Mrs. Meek. Hopefully?

Judge Davis. Yes. We would be if we go on track. The construction documents should go out May 1. And hopefully we will be able to meet some of those guidelines.

NEED FOR COURTROOMS

Mrs. Meek. What happens if you have visiting judges?

Judge Davis. I say the building boom is killing us right now. We are hitting--it looks like according to the estimates we had from yesterday that that is going to cause a 12 percent increase in certain parts of the project. In addition, the delay General Services Administration tells us and I am sure is

accurate, will cost another \$250,000 per month to put this building on-line in the future. This is a project that was done when courtroom sharing was changed.

Mrs. Meek. So, you aren't going to have space for visiting judges, I assume?

Judge Davis. No. We will not. I mean if the building was built the way OMB suggested.

Mrs. Meek. Is there space in any of the other courthouses you have around there, other courtrooms?

Judge Davis. It just would not work.

Mrs. Meek. Okay.

Judge Davis. I would be happy to answer any questions on any part of this project by any member of the staff.

Mrs. Meek. Thank you, Judge Davis.

Thank you, Mr. Chairman.

ERNST & YOUNG STUDY

Mr. Kolbe. Thank you very much, Mrs. Meek.

Let me ask a couple of questions here. We can hopefully wrap this up fairly quickly. Judge Roth, you talked about the fact that there was a comprehensive study by Ernst & Young of your facilities program. I think you have already given us a prelude of what is going to be in it. I will reserve judgment until I have a chance to see the study but you tell us that it is going to recommend one courtroom for every active judge. I think the real issue is going to be what kind of criteria you gave them and what kind of information you gave them.

I will have real questions as to how independent this study is, I would have to tell you.

Judge Roth. Mr. Chairman, let me say that we felt, first of all, in contracting with Ernst & Young that we are contracting with an internationally renowned organization.

Mr. Kolbe. Well, of course.

Judge Roth. We have had them interview all agencies involved in courthouse construction--OMB, GSA, and Congressional staffers. We have encouraged them to explore in depth all facets of court operations.

We had a focus group here in Washington of District Judges, discussing courtroom use. Ernst & Young has visited a number of courthouses around the country, has observed operations in those courthouses and has discussed operations. Ernst & Young has, for example, visited the Brooklyn, New York, courthouse. The Eastern District of New York is now in a forced courtroom sharing situation. There were two towers to the courthouse and one tower has been torn down, while a new facility is being built.

The judges are in a three-judges-to-two-courtroom ratio in the remaining tower. They are existing but it is a very difficult situation. Ernst & Young visited that court, viewed the operations of that court and have verified that the judges there are having a difficult time operating in that type of environment.

Mr. Kolbe. So, you did ask them specifically to look at the issue of courtroom sharing?

Judge Roth. Yes, we did.

Mr. Kolbe. Okay. When is the final study going to be

complete, when can we expect to have it?

Judge Roth. We hope by the end of April.

Mr. Kolbe. Very soon.

Judge Roth. It is grinding out, like sausage.

GUIDELINES EXCEPTIONS

Mr. Kolbe. Okay. Do the projects that you have requested for fiscal year 2001 conform to the courtroom sharing policy that is contained in your guide?

Judge Roth. There are exceptions which have been considered by the Judicial Councils of the courts involved. For instance, Miami is requesting a second special proceeding courtroom which they need because of the multi-defendant trials that take place there. So, any exceptions to the guidelines have been carefully considered by the Judicial Councils and approved by the Judicial Councils.

SEATTLE COURTHOUSE

Mr. Kolbe. Going in the other direction, though, doesn't Seattle include some courtroom sharing?

Judge Roth. The judges in Seattle determined that with their caseload and their case mix they can function in that manner. Unfortunately, OMB has cut out an additional courtroom beyond what Seattle thought they could exist with.

Mr. Kolbe. Well, I am interested because I certainly--Judge Davis interpreted your remark as being not just for your courthouse, but as a general proposition when you said you can't operate without one courtroom per active judge. Currently in Seattle they think they can.

Judge Roth. Well, Mr. Chairman, there is a very different mix of types of cases, of caseload per judge in various courts around the country. So, the courts aren't fungible. Districts aren't fungible. What works in Seattle may not work at all in Miami. It depends upon the caseload and the----

Mr. Kolbe. And I accept that. Then why shouldn't I be a little dubious about a blanket statement by Ernst & Young that every active judge must have a separate courtroom?

CASE MANAGEMENT

Judge Roth. Because in consideration of the situation as a whole in most courthouses which are much smaller than the Seattle Courthouse, the conclusion is that the system does not operate in a fair and just manner unless an active judge has a courtroom. As a District Judge, we are trained at the Federal Judicial Center in case management.

One of the things that we are taught is that as a case comes to you, you want to get that case planned, you want to have a trial date down the line and lawyers informed when that trial is going to happen. If you aren't sure you are going to have a courtroom to have that trial in, it is very difficult to convince the lawyers that the trial will go forward. It is the imminence of the trial that causes cases to settle.

When I was a District Judge, my calendar six months down the line had probably two cases scheduled for my courtroom for

every day of the week. Now, as those cases came closer to the trial date, often one, sometimes both, would settle so that my courtroom might be dark but it didn't mean that having that courtroom there, having the lawyers know that that courtroom was there for the trial did not act as a very significant factor in getting the case to settle.

Like Judge Hatter, I sometimes ended up with two cases going on and I tried one in the morning and one in the afternoon. In essence in those situations I needed two courtrooms and I was fortunate that I was in the situation where I could borrow a courtroom.

My personal experience reinforces what Ernst & Young has determined that as a general rule that is what is needed.

Mr. Kolbe. Well, as a general rule, but I mean my question would be why, if there are cases as Seattle may be such a case, it looks to me that it is something that ought to be considered where it is possible.

In fact, you just described a situation for yourself where you scheduled two trials to take place in your courtroom at the same time. Now, you knew that was going to be impossible to do. And, so, in a sense you were courtroom sharing yourself there.

If you have, just to take a hypothetical, if you have 12 judges in a courthouse in the course of that time, one of them is almost certainly either going to be on vacation or ill or doing something else. We have learned, certainly universities learned from classroom management and others, that you can utilize space better. It seems to me that with a common sense approach to it you ought to be able to consider the idea of courtroom sharing as a way that it can be managed.

Judge Roth. Well, Mr. Chairman, let me say that when a case settles and the courtroom is empty, as I said, the availability of that courtroom has served a purpose. If the courtroom isn't empty, if one morning you have 15 cases coming to trial, and 12 courtrooms available, you are going to send home the litigants in three of those cases. I have had that happen to me when I was a lawyer trying cases in the Delaware State Courts. I arrived at the courthouse with my client and my witnesses and I was told we are very sorry, it turns out that we don't have a courtroom for you after all. You go home.

Mr. Kolbe. But in the case you described, where you had two cases, if they had not settled those, you would have had to send one of them home anyhow, right?

Judge Roth. Well, or find another courtroom or even try one case in the morning and one case in the afternoon in one courtroom. Those are the types of solutions that you can make work in emergencies but that don't work in the orderly day-to-day operations of a courthouse.

Judge Edwards. Chairman Kolbe.

Mr. Kolbe. Go ahead. I want to ask one more question in this area. But go ahead.

COURTROOM SHARING

Judge Edwards. I was going to say in part response to what you have been asking Judge Roth, the general rule may be a problem but we are facing a general rule from OMB. OMB has done the flip of what we are being accused of doing and that is the

disaster. It would be one thing if we had a presumption in our favor. That is, the presumption is one courtroom per judge unless OMB or some other interested party could show to the contrary. But we are not even given that advantage.

Mr. Kolbe. Will the Ernst & Young study give us any hard evidence about the problem of courtroom sharing, that it has not worked? Results in justice delayed, in justice denied, added costs?

Judge Roth. It is my understanding that that will be present. I have not seen the draft in the state that it is.

Mr. Kolbe. Everything we are hearing is very anecdotal.

Judge Roth. Well, that is one of the reasons why we felt it was important that Ernst & Young do a study and include in their study courtroom sharing. I think we will be able to provide you with a great deal of the information that we hope will convince you that our position is well taken.

Judge Hatter. Mr. Chairman, could I just say that under OMB's proposal the courtroom sharing is not just between the active judges and the senior judges, it is also with magistrate judges and with bankruptcy judges.

Mr. Kolbe. Right.

Judge Hatter. And magistrate judges do not hear felony jury trials. Bankruptcy judges don't even have jury boxes in their courtrooms. So, again, it doesn't make very much sense to talk about that kind of sharing.

Mr. Kolbe. Okay. I would agree with the statement that Judge Edwards just made that the reversing of this presumption, saying, automatically that there would be a hard and fast rule that all will be sharing, would be just as bad as saying there will not be any sharing. My view is that we should be able to consider this where it is appropriate.

Judge, very quickly, and then I will go to my last question.

DISTRICT OF COLUMBIA COURTHOUSE

Judge Edwards. I am going to make it very, very short if I may. I have no one up here to adopt me so I will be killed if I go back to my home court and I don't make the point.

Mr. Kolbe. By the way, are all of your courtrooms empty today?

Judge Edwards. Are all of them empty today? I hope not.

Mr. Kolbe. No, all four of you.

Judge Hatter. Mine is being used by another judge trying one of my multi-defendant cases today.

Mr. Kolbe. Thank you.

Judge Edwards. I have one wrinkle on all of what you have heard today and it is a simple one and the D.C. Circuit is affected by what I want to say. It is bad economics. OMB's proposal makes no sense. Our design is done. We are ready for construction. It is a \$109 million project. They think they will save \$5 million. In fact, the GSA figures, they have run the figures, if we have to do what OMB proposes to do it will cost the taxpayers an additional \$10 million.

Mr. Kolbe. Judge, I think you make a good point and the thrust of my questions has not been about projects that are already completed with the design. But I think there is a

broader question, a more long-term question as to whether what the policy should be for other projects as we go into the design.

Judge Edwards. I am just hoping that as you consider the larger policy that those of us who are in a very clear situation can get the appropriations that we ought to appropriately get.

PRIORITY LIST

Mr. Kolbe. Leaving the sharing for a moment, on the priority list, why did you include Springfield, Massachusetts, courthouse for construction when GSA made it fairly clear, I believe, that it was one they wouldn't be able to start in the coming fiscal year?

Judge Roth. Well, originally, it was anticipated that it could. Apparently there is--Eugene and Springfield--one of them was on the cusp. It was going to be ready either in August or October.

If GSA because of changes in circumstances determines that it is not ready, we will abide with what GSA says. Our understanding is when the list was presented these were projects ready to go. The list attached to my statement are the projects which GSA and we agreed are ready to go.

Mr. Kolbe. Well, okay. I understand it was on the original request, but on your revised request it is still there. You are still saying it is ready to go now?

Judge Roth. Well, that was our understanding. If GSA says it is not ready to go, then we are getting different vibrations from the court, itself, than we are getting from GSA in Washington. But----

Mr. Kolbe. You mean from GSA up in Springfield as opposed to GSA down here?

Judge Roth. Yes.

Mr. Kolbe. That does happen.

I see you have this dilemma. Excuse me, Mr. Goode, do you have any questions? I apologize here.

Mr. Goode. No. I don't have any questions.

ACHIEVING CONSENSUS

Mr. Kolbe. Okay. I think you see the dilemma--and I will conclude as far as I am concerned--I think you see the dilemma that we have here. You are in the business all the time of trying to adjudicate between parties that have different points of view, that is your job. In a sense, that is our job, too, of establishing priorities. But I have been very clear that I want to do this on the basis of information that is of a set standard, a set of practices and agreed upon priorities and usages that all parties can agree upon, otherwise, it does become just a political decision and it shouldn't be.

And my frustration here is that we do not have the courts and the Executive Branch, in this case, General Services Administration and OMB, together on this thing. And so my dilemma is to try and to sort this out and try to figure out what a policy ought to be. And I would really prefer to have you people go into your courtroom with GSA and OMB, go into the jury room and thrash this out and come back to me with a

decision about this rather than my having to sort it out.

Judge Roth. Let me say that GSA and the courts do thrash it out. This pile of documents is the information on the Richmond, Virginia, courthouse. This was done by GSA and the courts working together. OMB has jumped into the scene. OMB did not consult with us before coming out with their new policy. We feel we can work very well with GSA by the statute--the councils, determining what is needed, working with GSA to provide it in the most economical way possible, coming up with figures and facts to support what we are doing. We would hope working with GSA we can go forward on the list as GSA and the courts have worked it out.

Mr. Kolbe. Does OMB come to you and ask for information or do they just go through GSA?

Judge Roth. No. They work with GSA.

Mr. Kolbe. They work with GSA.

Judge Roth. We work with GSA.

Mr. Kolbe. And you work with GSA?

Judge Roth. Yes, we work with GSA.

OMB UNILATERAL DECISION

Mr. Kolbe. And so there is not a direct line--OMB's analyst for construction of courthouses does not come to talk to you about this issue at all?

Judge Hatter. We weren't even given the courtesy of commenting about what they were going to submit to you. We saw it after the fact.

Judge Edwards. The numbers that you have from us are the same numbers that GSA sent in to OMB. There is no inconsistency between our thinking and GSA's thinking. The problem here, plain and simple, is OMB. Mr. Peck was very polite and diplomatic today in hedging on that point. He is in a bind as is all GSA. Please, understand there is no confusion on this point. GSA sent in numbers that supported our positions right down the line. The change came only when OMB imposed a unilaterally created standard that was not justified by anyone.

Judge Roth. And by statute it is the courts and GSA which create these projects. OMB does not have a role in this decision making process of what is needed for the courts.

CONCLUDING REMARKS

Mr. Kolbe. All right. Well, thank you all very much for helping to enlighten us on this. Maybe this will all be moot if the 302(b) allocation for the Subcommittee is so insufficient that we don't get to do any of this construction. Maybe we will have another year to sort some of this out. But I----

Judge Edwards. Don't say that, please, Mr. Chairman.
[Laughter.]

Mr. Kolbe. Well, I certainly hope that is not the case and that we will be able to go forward with some of this construction here. I appreciate very much your being here today and being so helpful.

Judge Roth. We appreciate the opportunity, thank you.

Mr. Kolbe. The Subcommittee is adjourned.

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